



# Education and Local Government Interim Committee

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## 58th Montana Legislature

### SENATE MEMBERS

DON RYAN--Vice Chair  
GREGORY BARKUS  
WILLIAM GLASER  
RICK LAIBLE  
JEFF MANGAN  
DEBBIE SHEA

### HOUSE MEMBERS

JOAN ANDERSEN--Chair  
NORMAN BALLANTYNE  
SUE DICKENSON  
TOM FACEY  
VERDELL JACKSON  
LARRY LEHMAN

### COMMITTEE STAFF

CONNIE ERICKSON, Research Analyst  
EDDYE MCCLURE, Staff Attorney  
PAMELA JOEHLER, Fiscal Analyst

## MINUTES

June 9, 2004

Rm. 137, Capitol Building

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.**

### COMMITTEE MEMBERS PRESENT

REP. JOAN ANDERSEN, Chair

SEN. GREGORY BARKUS  
SEN. WILLIAM GLASER  
SEN. RICK LAIBLE  
SEN. JEFF MANGAN  
SEN. DEBBIE SHEA

REP. NORMAN BALLANTYNE  
REP. SUE DICKENSON  
REP. TOM FACEY  
REP. VERDELL JACKSON  
REP. LARRY LEHMAN

### COMMITTEE MEMBERS EXCUSED

SEN. DON RYAN

### STAFF PRESENT

CONNIE ERICKSON, Research Analyst  
LEANNE KURTZ, Research Analyst  
EDDYE MCCLURE, Staff Attorney  
KIP DAVIS, Secretary

## Visitors & Agenda

Agenda, Attachment #1  
Visitors' list, Attachment #2.

## CALL TO ORDER AND ROLL CALL

The meeting was called to order at 9:30 a.m. by REP. ANDERSEN and the attendance was noted by the secretary (see ATTACHMENT #3). The minutes from the October 30, 2003, meeting were adopted unanimously.

### I. Report from Post-secondary Education Policy and Budget Subcommittee

SEN. BARKUS reviewed *EXHIBIT #1*, a status report on the interim efforts of the Subcommittee, including proposed draft legislation. In December, the Subcommittee unanimously decided, based on the recommendations of two members of the Board of Regents, to participate in a program already begun by the Commissioner's office to create a shared leadership role for economic development within the state through the University System. Shared Leadership Group participants include over 100 people in leadership positions in both the public and private sectors from across the state. Details of the initiatives to help implement the "Shared Leadership for a Stronger Montana Economy" are included as *EXHIBIT #2*. SEN. BARKUS feels the program is on-track to help develop new thought processes and change existing viewpoints of the higher education system in Montana. The draft resolution will be discussed further at the next meeting of the Shared Leadership Group and, if concurred in, will be brought before the full Committee in September.

- Committee questions or comments

REP. DICKENSON commented that this is really a unique situation, to have the executive and legislative branches, the private sector, and the University System working together to improve educational opportunities in this state and to move the state forward in economic development and that she is excited to a part of this Shared Leadership Group. The six initiatives developed by the Group will all require a commitment of funding from the Legislature, although all of the necessary funding may not have to be public funds--if the private sector has confidence in the system, the goals, and the product (well-educated, open-minded individuals with useful skills and abilities), then it is feasible that some funding may be available from that source.

- Public comment

**Erik Burke, Public Policy Director, MEA/MFT**, told the Committee that the faculty involved in higher education in this state has noticed some disturbing trends developing in recent years. Currently Montana spends less on higher education than 47 other states--only New Hampshire and Vermont spend less. Also, Montana is at the bottom of the scale for faculty wages. Every other western state spends more on higher education, yet Montana does deliver a quality education and does so more efficiently, because Montana operates more institutions with fewer funds than those other states. However, the state must invest in higher education if we want people to invest in Montana and thus enabling the state reap the benefits of economic development.

**Sheila Sterns, Commissioner of Higher Education**, distributed to the Committee copies of a book titled: "Standards for What? The Economic Roots of K-16 Reform", which relates the connection between education and economic development of the state (see *EXHIBIT #3*). In Montana, the issue is not unemployment, because the unemployment statistics in Montana are fairly low--the real issue is the low wages available in Montana. Montana needs to raise the per capita income within the state and this requires an education component. **Ms. Sterns** said that, although substantial financial resources will be necessary, at this point the priority should be on identifying the problems and deciding where to focus the state's efforts. Montana, in order to raise job and income levels, needs to assure that people who cannot get into college because of a lack of financial resources get the aid they need, because it will pay off in the long run. It is predicted that the United States will experience a shortage of 14 million postsecondary-trained workers by 2020.

## **II. Report from Commissioner of Higher Education**

- **UM Athletic Deficit**

**Ms. Sterns** offered the Committee an handout: "Executive Summary--Special Panel on the UM Athletic Deficit" (see *EXHIBIT #4*), which delineates the charge to the panel and the main findings of the Panel. The full report of the panel, with findings and recommendations, is included as *EXHIBIT #5*. The panel was put together in March to independently investigate the problem and offer recommendations. The University System and the staff of the Board of Regents are working to make sure these recommendations are implemented. **Ms. Sterns** said she wanted to emphasize how seriously her office, and the Board of Regents, took this issue. The issue was explored thoroughly, panel meetings were open to the public, and a website was maintained to allow public access to the information. The University System, the Board of Regents, and the administration at the University of Montana-Missoula are on the right track to solve this issue.

SEN. GLASER, stating that it was obvious that the situation of the athletic department is an indication of deeper problems throughout the University System, asked if **Ms. Sterns** was extending the reorganization effort beyond the athletic department to the whole System. **Ms. Sterns** replied that the lessons being learned will be applied, topic by topic, throughout the System and her office is going beyond what the panel recommended and, because of several requests for independent audits, has set into motion a request for a legislative performance audit of procurement card usage throughout the University System.

SEN. BARKUS said that he had scanned the summary and didn't see a reference to Title IX and asked if the effects of Title IX were relative to the shortfall. **Ms. Sterns** answered that System had come to terms with Title IX, which passed Congress in 1972, and compliance with Title IX had little, if any, effect on the problems of the athletic department.

REP. LEHMAN asked if any reprimands have been issued to the people responsible for the problems. **Ms. Sterns** explained that the athletic director had received a warning concerning this issue over a year ago and has since resigned and both University Presidents, Gamble and Dennison, were evaluated by the Board of Regents in executive session in May.

- **P-20 Education Committee**

**Ms. Sterns** distributed *EXHIBIT #6*, a folder containing several documents describing the work of the Montana Board of Education and explained that the Leadership Group was charged with identifying how the mission of education described in the Constitution could be better carried out. The Group will be involved with strategic planning in an effort to expand the principles involved in a K-12 education system to cover preschool through a college education and make the Montana education system more competitive with other states. At the next meeting of the Board of Education in September, the Leadership Group hopes to offer a plan to implement a long-term, seamless integrated education system that is more efficient, that better uses available education dollars, and that relates to the findings coming from the School Renewal Commission.

**Steve Meloy, Executive Secretary, Board of Public Education**, told the Committee that, when he began in July of 2001, he took an inventory of what the law required that he, as the Board of Public Education's executive, should be doing and what the Board should be doing. One of the first issues was that although the Board of Education was required to hold two meetings a year, scheduling problems made this difficult, so the bylaws were amended to provide for specific meeting dates. The Board did not have an infrastructure at that time, so four working committees were created: the P-20 Committee, which speaks to all issues that cross jurisdiction between K-12 and higher education; the Unified Budget Committee, which is attempting to come to grips with what a unified budget is and what it means; the Indian Education For All Committee, which is trying to find the best ways to meet the constitutional and legal requirements to implement Indian education statewide; and the Policy and Evaluation Committee, which defines how the Board of Education should work. **Mr. Meloy** pointed out that the work of the Board of Education is essentially unfunded, and there are no line-items in any budget that fund the work of the Board of Education.

**Bud Williams, Deputy Superintendent, Office of Public Instruction**, said that his office is excited by and dedicated to the P-20 education project. Montana has wonderful schools and his office understands that, to promote education in the state, K-12 and higher education need to be mutually supportive.

SEN. GLASER, noting that the Constitution says that all persons in the state shall have equal educational opportunity, commented that the P-20 program seems to reject nontraditional students and asked **Mr. Williams** if the group had discussed the opportunities available to people who reach 18 or 19 or older without a high school diploma, because the Constitution says the state needs to make the opportunity available even to people who have missed a step in the education process. **Mr. Williams** answered that, although his group had not discussed that specific area, it is a topic of on-going discussion in our schools.

SEN. LAIBLE asked **Ms. Sterns** if, when looking at option 6 which proposes tracking high school and post-secondary students through school and into the work force, her group had considered the fact that a tracking program like that would only account for about half of the students in the state and was any consideration given to tracking high school and college dropouts to determine if they found a job, went on public assistance, or left the state. Was any consideration given to tying in what her group is trying to accomplish with the job skills needed by industry in this state? **Ms. Sterns** explained that the proposed integrated data tracking system is already working well in Florida and Washington and is tracking students from preschool onward and is linked to the work force. Conferences have been held on ways to link up what state education is doing with the needs of the labor market.

REP. FACEY commented that he belonged to a committee in his school district that is looking at dropout rates and he has learned that there is a disconnect between the dropouts and the knowledge that the more education a person has the more money they make. Perhaps there needs to be some public education about the connection between education and salary. **Ms. Sterns** replied that the Student Assistance Foundation already has circuit riders going to middle schools and high schools throughout the state to make that connection and that issue will be part of the strategic planning performed by the P-20 Committee.

CHAIRMAN ANDERSEN commented that the effort needs to include helping parents to understand how important it is to be involved in their child's education and how that involvement will benefit the child's future.

REP. BALLANTYNE told the Committee that one problem with career pathways is often parents feel that their children are being forced into a path or field that the children may not be interested in. We need to look at changes to the entire educational process, from kindergarten through college, to provide opportunities to the students who are only marking time and aren't interested in school.

REP. JACKSON commented that the majority of high school students don't see the relevance of what they are being taught and don't consider it relevant to either their personal lives or to their future work. Aligning high school standards with college admission requirements is part of the problem, because much of what is in the textbooks is irrelevant and has no practical use to anyone in the field. If we focused on teaching learning skills we could make the students lifetime learners.

REP. LEHMAN questioned how the enrollment in the University System could increase over the last several years, in light of the declining enrollments in K-12. **Ms. Sterns** answered that the increased enrollment could be attributed to three things: non-traditional students; out-of-state students; and the fact that the K-12 enrollments were still increasing until recent years.

- **Public Comment** -- None

### **III. Report from K-12 Education Subcommittee**

REP. LEHMAN told the Committee that the Subcommittee first met on January 9 and the priority item was a discussion of a statewide health insurance program for public school districts. Because the Subcommittee felt that it was not their prerogative to put together a plan, a working group was formed of interested parties--teacher and education advocacy organizations, school administrators, and insurance and health care representatives--and charged with the task of coming up with a consensus that could be put in the form of a bill draft and proposed to the full Committee as a Committee bill. The working group held four meetings and 95% consensus had been achieved, enough to enable a bill draft to be written, when it was scheduled to meet with the Subcommittee on May 27. Two days before the Subcommittee meeting the consensus dissolved when two organizations, MREA and MTSBA, withdrew their support of the proposed bill draft, with local control seeming to be the major concern. The interested parties did agree to continue meeting on their own, without staff assistance, to try to regain the consensus. If consensus is achieved, the details must be on paper and presented to our staff by August 1 to allow time for a bill draft to be prepared to be presented to Committee members in advance of the September meeting. Any interested person is welcome to participate and offer input to the working group, and the mailing list of interested parties has been forwarded to Lance Melton and Bob Vogel, Montana School Boards Association. REP.

LEHMAN emphasized that he wanted to make it clear that the interested individuals, school districts, and organizations should attend these meetings and that it behooves the MEA/MFT and the MTSBA to contact these people and make the meeting information known to them.

#### **IV. Report from Public School Renewal Commission**

**Lieutenant Governor Karl Ohs** told the Committee that he was a member of the School Renewal Commission and for about a year the Commission has been working through the issues involved in how the state of Montana handles education, especially trying to define "quality education". Subcommittees were formed to deal with some of the issues surrounding a more efficient education system. One subcommittee is looking at the education delivery system to see if education can be offered in a better way. The taxation/revenue subcommittee is looking at funding mechanisms, and the barriers to consolidation subcommittee is identifying how our current statutes make it difficult for school districts to consolidate and studying ways to fix the problems and make consolidation less cumbersome. Because all of these subcommittee issues are intertwined and relate back and forth, the Commission developed a "parking lot"-- items are discussed and then "parked" until the rest of the pieces are ready. The Commission has benefitted from good attendance and good representation, and **Lt. Gov. Ohs** said that he is hopeful that the Commission will be able to offer practical and reasonable recommendations to the Legislature.

SEN. LAIBLE asked if Commission will be offering any legislation. **Kris Goss, Education Policy Assistant, Governor's Office**, answered that recommendations will be drafted at the next Commission meeting and, once they are approved by the Commission, the recommendations will be presented to this Committee for approval and discussions about possible legislation.

#### **V. Report from Local Government Subcommittee**

SEN. MANGAN explained that the Subcommittee's main duty was to look at HJR 37, regarding the Subdivision and Platting Act, and a proposed bill was drafted with revisions to that Act (see *EXHIBIT #7*). The Subcommittee discussed sanitation in the Subdivision Act and the working group will continue to meet and may offer ideas at the next Subcommittee meeting. The Subcommittee also heard discussions about several issues that the Subcommittee declined to delve into because of time constraints, such as governmental franchises and zoning.

SEN. LAIBLE reviewed *EXHIBIT #7*, explaining in detail how the proposed bill draft amends the existing statutes in Title 76, chapter 3. The purpose of the proposed bill is to make the law more comprehensive and streamlined for the people involved--city and county planners, realtors, builders, and developers--and to give tools to the county to help them prevail in the lawsuits that are plaguing Montana communities as a result of the current statutes. *EXHIBIT #8* is a flow chart that shows the path of the proposed decision-making process, incorporating the Brandborg Decision. *EXHIBIT #9* is a schematic drawn by the Montana Association of Realtors as a visual representation of what the proposed bill does.

- **Subcommittee Recommendation**

SEN. LAIBLE recommended that the Committee, as a body, support and move this draft bill forward and present it to the Legislature in 2005.

- **Committee Discussion**

REP. JACKSON asked if the definition of "minor subdivision" had been changed and was the issue of septic approval covered. The Committee learned that, currently, there is no definition of "minor subdivision" in statute. SEN. MANGAN said that the Subcommittee working group is continuing to work on the issue, although the issue of septic approval is not discussed in the bill, and will offer any suggestions at the next meeting of the Committee, noting it is not the intent of the Subcommittee to present another bill unless a full consensus is in front of the Subcommittee in September.

REP. JACKSON commented that the Legislative Audit Division had already noted the unnecessary duplication occurring because both the counties and the state are doing septic approval, with the result that the process can require months, and asked if the Subcommittee was considering remedies to address the need for the state to provide technical assistance rather than redoing what the counties have already done. SEN. MANGAN answered that legislation to address this issue is expected for the 2005 session; it just isn't coming from the Subcommittee to the full Committee at this time.

REP. DICKENSON noted that Section 7, on page 15 of the bill draft, talks about a "reviewing agency" and questioned if this was another phrase for "governing body". SEN. LAIBLE answered it could be the county commissioners or other form of governing body but the designated agency could also be the planning board or staff. REP. DICKENSON then questioned if smaller reviewing agencies without much staff were going to need assistance with this responsibility. LEANNE KURTZ informed the Committee that a County Planner from Stillwater County was included in the working group and that perspective was incorporated in the discussions of the working group.

REP. FACEY posed a situation wherein a subdivision was platted in the 1930s and a landowner with one house on the front of the lot is now proposing to put a new house on the back of the lot and questioned if that situation is addressed in current state law or is it subject to local control. **Michael Kakuk, Attorney, Montana Association of Realtors**, explained there is an exemption in current law for that situation, although local control can be implemented through zoning that increases the minimum lot size.

- **Public Comment on Recommendation**

**Peggy Trenk, Montana Association of Realtors**, told the Committee that her association supports the proposed bill draft. It increases accountability and offers more predictability to the process and extends necessary timelines in a helpful manner.

**Tim Davis, Montana Smart Growth Coalition**, urged the Committee to support the proposed legislation.

**Jeff Bullman, President, Montana Association of Planners**, indicated his organization's support of the proposed bill draft, citing approval of the sections providing multiple public hearings and the incorporation of local control with the flexibility to allow individual communities to develop regulations to fit their unique situations and location.

CHAIRMAN ANDERSEN extended a thank you on behalf of the Committee to the members of the working group and to the staff for their hard work and cooperation in reaching a consensus on this issue and putting together the proposed bill draft.

- **Committee Decision on Recommendation**

CHAIRMAN ANDERSEN noted that the recommendation to go forward with this bill and offer it to the 2005 session under the auspices of the full Committee had been moved and seconded and opened the floor to Committee discussion.

SEN. MANGAN commented that this proposed bill takes care of local governments, provides for responsible work by local governments through the preapplication process, spells out the application process in statute, and provides accountability if an application is turned down. The proposed bill spells out what the local governments must do while leaving them to choose the best process by which do it. He urged the Committee members to approve this bill draft as a committee bill and assign SEN. LAIBLE to carry the bill.

SEN. LAIBLE told the Committee that the driving force behind the proposed bill was to try to eliminate many of the lawsuits facing communities within the state that occur because the law isn't clear. This proposed bill draft clears up those ambiguities and provides local governments with a roadmap.

CHAIRMAN ANDERSEN called for a voice vote on the motion to present this proposed bill draft to the 2005 Legislature by the request of this committee and under the sponsorship of SEN. LAIBLE. The motion carried unanimously.

**VI. Public Comment on Any Issues Within the Jurisdiction of the Committee**

None

**VII. Meeting Wrap-up**

CONNIE ERICKSON told the members of the Committee that the final meeting will be Tuesday, September 14, and Wednesday, September 15, noting that a 2-day meeting is necessary to wrap up the remaining business of the Committee. That business will include a formal report from the Public School Renewal Commission, which may incorporate recommendations for legislation; a final report from the PEPB Subcommittee, which is working on a resolution to present to the full Committee; a report from the K-12 insurance working group, if consensus is reached by then; a review of Committee legislation recommended by the various Subcommittees; and a statutorily required review of agency legislation requested by agencies under the jurisdiction of this Committee. MS. ERICKSON added that, although this Committee also has responsibility for local government, there are few, if any, state entities that address local government and offered to invite Montana Association of Counties and the Montana League of Cities and Towns to discuss what their legislative agendas will be during for the upcoming session. This would be offered as opportunity for Committee members to preview issues that will be raised during the 2005 session and does not involve the Committee approving draft legislation.

MS. MCCLURE added the reminder that the Subcommittee on Subdivisions and the Local Government Subcommittee will met from 8-10 a.m. on Tuesday, September 14, with the full Committee meeting to follow at 10:30 a.m.

SEN. MANGAN asked if room on the agenda could be made for a report from the Subcommittee's meeting on the 14th, because there could be recommendations for legislation

coming from that meeting. SEN. MANGAN also formally requested, on behalf of the Local Government Subcommittee, that MACO and the Montana League of Cities and Towns be invited to the meeting to present their ideas for legislation to the full Committee.

CHAIRMAN ANDERSEN seconded the request for input from the organizations representing local government within the state.

REP. JACKSON offered the comments that, although he was not on the Renewal Commission, he was the substitute for three Commission members because of his interest in this area. REP. JACKSON said that he differed philosophically with the approach taken by the Commission, which was to define "quality education" according to the components of the lawsuit, rather than his method of developing a definition of quality education based on student outcomes. The materials and ideas he put together were placed in the "parking lot" and have not been acted on. REP. JACKSON added that he was trying to convince the Commission that, if they are going through the consensus process with the Montana Consensus Council, there is the possibility of a minority viewpoint report, which would be expressed by his materials and ideas on the definition of quality education. REP. JACKSON said that he has been sending a packet of these materials out to people who request it, noting that people who have visited the Commission's website have been contacting him for information.

CHAIRMAN ANDERSEN adjourned the meeting at 12:45 p.m. The next meeting will be Tuesday and Wednesday, September 14 and 15.

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