



# Education and Local Government Interim Committee

PO BOX 201706  
Helena, MT 59620-1706  
(406) 444-3064  
FAX (406) 444-3036

## 57th Montana Legislature

### SENATE MEMBERS

EDWARD B. "ED" BUTCHER  
ALVIN A. ELLIS JR.  
WM. E. "BILL" GLASER  
LINDA J. NELSON  
DON RYAN  
DEBBIE SHEA

### HOUSE MEMBERS

JOAN ANDERSEN  
GARY BRANAE  
TOM FACEY  
JEFF MANGAN  
GAY ANN MASOLO  
ART PETERSON

### COMMITTEE STAFF

CONNIE ERICKSON  
RESEARCH ANALYST  
EDDYE McCLURE  
STAFF ATTORNEY  
PAM JOEHLER  
FISCAL ANALYST

January 11, 2002

## MINUTES

Room 137, State Capitol  
Helena, Montana

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 documents.**

### COMMITTEE MEMBERS PRESENT

Rep. Masolo  
Rep. Peterson  
Rep. Facey  
Rep. Branae  
Rep. Mangan

Sen. Butcher  
Sen. Ellis  
Sen. Glaser  
Sen. Nelson  
Sen. Ryan  
Sen. Shea

### COMMITTEE MEMBERS EXCUSED

Rep. Anderson

### AGENDA & VISITORS' LIST

Agenda (ATTACHMENT #1)  
Visitors' List (ATTACHMENT #2)

### CALL TO ORDER, ROLL CALL, ADOPTION OF MINUTES

Sen. Nelson called the meeting to order at 9:02 a.m. Roll call was noted (ATTACHMENT #3) with all members present except for Rep. Anderson who was excused. Rep. Masolo moved to adopt the minutes from the November 2, 2001 meeting. The motion passed unanimously.

### **BOARD OF PUBLIC EDUCATION**

**Kirk Miller, Chairperson, Montana Board of Public Education**, introduced the members of the Board and reviewed the Board's visions and goals (EXHIBIT #1). In addition, he provided a copy of the Board committee assignments (EXHIBIT #2).

**Diane Fladmo, Vice Chairperson, Montana Board of Public Education**, reviewed the goals of the Board and their two year work plan.

**Randy Morris, Member, Montana Board of Public Education**, provided an update on the shortfalls of the "No Child Left Behind" Act. He said that Montana stands to gain an additional \$22.8 million for public school education. However, he said that there will be a decrease in the threshold for eligibility for Title I, which will result in a dilution of monies for existing programs. Mr. Morris said that there is \$4 million for special education which does not come close to the federal promise of 40% funding. There is \$3 million for PELL grants and work study which does nothing to help K-12 students. He said that even though there is an increase in funds, there are caveats and strings associated with receiving those funds.

Sen. Glaser asked Mr. Morris about the special education funds and maintenance of effort. Ms. Fladmo stated that the federal regulations allowed for a break for school districts so that you can take away approximately 20% of any increase in federal funding for maintenance of effort. Sen. Glaser asked if the federal government is still not meeting their promise of 40%. Ms. Fladmo said that that is correct and the additional funds will bring Montana to 19% or 20%. Sen. Glaser stated that if they only allow us to use 20% to augment maintenance of effort at the local level then the increase is even smaller. Ms. Fladmo stated that that was correct.

Rep. Peterson asked to what extent has the Board's planning taken into consideration all levels of education. Dr. Miller stated that the Board does accredit private schools if requested. Rep. Peterson asked if private postsecondary institutions are helping to strengthen teaching at the elementary and secondary level. Dr. Miller stated that all Montana schools of education are trying to meet the national accreditation standards so that one team of people can come in and grant national as well as state accreditation. Rep. Peterson stated that he wanted to reach beyond the accreditation process and is looking for more of a cooperation between the public and private schools. Dr. Miller stated that they are trying to develop a structure to allow high quality, meaningful, systemic development for all institutions in Montana.

Sen. Ellis asked Dr. Miller if Montana was prepared to meet the assessment requirements of the new federal law that no child be left behind. Dr. Miller said no. He qualified the statement by stating that

they do not have all of the guidelines yet. In addition, he said the state is severely deficient in being able to implement norm reference testing. Sen. Ellis asked how we can do an effective job of educating students if schools are not prepared to determine what students know at different grade levels. Dr. Miller stated that we base our assessment on the quality of graduates that are in the work force. In addition, he stated that there has to be multiple ways to test the ability of a child, not just one test. Sen. Ellis asked about accreditation standards and the subjectiveness of assessment criteria. Dr. Miller stated that there is a blending between state and local control and that the accreditation standards are the last and only safe guard that we have in our system to assure a quality education for students. He said that there is a strong move to develop an adequacy study which determines what is a quality education. Sen. Ellis asked about the quality of education for Native American students. Dr. Miller stated that as a Board we work on a daily basis analyzing those areas where we believe there are deficiencies and work on a plan. He said that they do need to start making a difference for the Native American community.

Sen. Shea asked about the Pre-professional Skills Test (PPST) and her frustration that there is no alternative way to take the exam. Dr. Miller responded that they have developed a solution that is in a preliminary stage that will provide an alternate exam or eliminate the PPST and look at more of an education portfolio.

Rep. Facey asked what the philosophy of the Board is in relationship to the federal governments role in K-12 education. Dr. Miller responded that we've become more dependent on the dollar situations that are created at the federal level. He believes Montana could not operate without the federal funding.

Sen. Butcher asked about requiring rural schools to provide special education. If the state refused the federal money, would we have to provide special education at all? Ms. Fladmo responded that special education is a civil rights statute and even if the state refused federal funds, the state would be responsible to provide special education programs. She said that Montana is active in working to ease the regulations. Sen. Butcher asked about state dollars needed for testing programs. Dr. Miller stated that the Board of Public Education and the Office of Public Instruction are working on, through the Title I compliance agreement, testing criteria and reference testing for mathematics and reading for grades four, eight, and eleven. He said that the accountability issue is going to be defined at the federal level and the cost for insuring that a certain level of accountability is met is going to be significant in comparison to what Montana is used to.

### **HOUSE BILL 625**

**Jeff Hindoi**, Governor's Office, presented the Governor's report regarding HB 625 and K-12 education (EXHIBIT #3). He continued to state that the report is what is contemplated under the legislation and there are still fiscal portions that will be transmitted by February. Specifically recommended were:

- Create a countywide levy to fund the property tax portion of the BASE budgets of all school districts in a county
- Expand county retirement levy to include budget authority for health insurance
- Use a weighted GTB calculation for both the countywide BASE budget levy and the county retirement/insurance levy
- Adopt the transportation funding structure proposed in HB 163 from the 2001 Legislative Session
- Calculate the average number belonging (ANB) for a district using average enrollment over a 3-year period
- Provide an annual inflator tied to the CPI for the basic entitlement, per-ANB entitlement and special education funding
- Modify portions of the HB 124 block grant structure.

**Amy Carlson, Office of Budget and Program Planning** presented maps to the Committee (EXHIBIT #4) which explained the change in mill levies across the state with county equalization.

Sen. Shea asked why the mill levy changes need to be made. Ms. Carlson stated that the Council felt it is a taxpayer equity issue. Sen. Shea asked who would object. Ms. Carlson stated those whose mills increased by a significant amount.

Sen. Ellis asked why isn't this a good idea on a statewide basis. Ms. Carlson stated that the mill increases would be greater on a statewide basis. Sen. Ellis asked for comparative figures detailing who would benefit and who would not. Ms. Carlson said that those figures had not been calculated yet.

Sen. Butcher stated that this plan could penalize the more efficient school district and subsidize the less efficient school district. Ms. Carlson stated that that would not happen because these are required mills not optional mills. Sen. Butcher continued to state that they are still taking away from some districts and giving to other districts. Ms. Carlson said that the change is affecting tax payers and not school district budgets.

Sen. Glaser said that some districts spend less than they budget. Ms. Carlson responded that there are a few districts who spend less and this takes the incentive away for doing that.

Rep. Mangan clarified that this is not a map that shows the efficiency or non-efficiency of a school district. Ms. Carlson said that it is only a tax payer equity situation.

**Madalyn Quinlan, Office of Public Instruction**, reviewed in more detail the recommendations listed above.

Mr. Hindoien reviewed the last three recommendations of the Council which required more areas of study. Those areas are:

- Creation of Capital Projects Fund by combining existing funds
- Teacher recruitment and teacher retention
- Adequacy of funding for Montana's K-12 school system

**Linda Mcullough, State Superintendent of Public Instruction**, shared her comments and concerns regarding the Council's recommendations (EXHIBIT #5). Overall she supports the council's report as she believes the proposal will:

- spread the burden of funding for public schools more equitably among property taxpayers;
- build a more stable funding base for academic programs by cushioning the impacts of declining enrollments and rising health insurance costs;
- simplify the transportation funding structure for schools; and
- recognize the impacts of inflation on the cost of education services.

Sen. Glaser said that the county wide permissive levy on health insurance takes the burden of health insurance out of the schedules and treats it like retirement. In doing so, it relieves the schedules by \$36 million so there will be additional funds to spend at the local level. He said that he hopes the public will understand this during Mr. Hindoien's presentation. Ms. Quinlan said that they are trying to obtain more accurate data concerning health insurance and then they will provide a reasonable estimate of how much school district spending would increase. Sen. Glaser asked why it was a conscious decision to go towards districts where legislators are going to have a difficult time in their district. Mr. Hindoien responded that the statewide levy was the more difficult political problem. However, he realizes that this is going to create discussion.

Sen. Ellis asked that the Council create one more map which lists what the statewide levy would be as well as a comparison map. Mr. Hindoien said they would create that map. Sen. Ellis asked Ms. Quinlan about the fund balance re-appropriated for the over-BASE (Base Amount for School Equity) budgets. Ms. Quinlan responded that the monies are interest earnings, rental fees, and tuition as of next year will be an over-BASE revenue. Sen. Ellis asked Mr. Hindoien about calculating the average number belonging (ANB) over a three year period. Mr. Hindoien responded that this is an issue of debate and the Council collectively felt that that was the direction they wanted to go, but they will get input from the public. Sen. Ellis asked about block grants and if they will no longer belong to a school district. Mr. Hindoien stated that a portion of the HB124 block grants is going to stay at the county to support the county wide levy. Ms. Quinlan responded that the block grant monies that are going to debt service would go to districts based on their eligibility for school facility payments. Sen. Ellis asked if it would be possible for a Native American community who had no taxable property to build a school for free with block monies that formerly went around the state. Ms. Quinlan said that is fairly unlikely because districts without a tax base do not tend to issue general obligation bonds.

Rep. Mangan asked what is the most important element not addressed in this report. Mr. Hindoiien stated that the adequacy issue was not fully addressed. Ms. Quinlan added that within the adequacy discussion is the question of whether we are adequately appropriating money between programs. Rep. Mangan asked about the state share for school funding and special education funding. Mr. Hindoiien responded that the process has raised the point that as Montanans we need to decide what we expect out of the school system. Rep. Mangan stated that he is concerned with where the administration's priority is for funding education when the long-term systemic issues have not been addressed.

Rep. Facey, asked Mr. Hindoiien if there were too many administrators in Montana and if accreditation standards hindered our schools. Mr. Hindoiien responded no, but those were not areas which they addressed. Rep. Facey asked if there were other issues that hinder the public education system in Montana. Mr. Hindoiien responded no. Ms. Quinlan responded that there are people who don't want to begin the discussion because people believe we have too many school districts.

Sen. Butcher asked if there are too many rules and regulations that get in the way of basic education. Mr. Hindoiien stated that those issues did not come up outside of broader discussions of money allocation.

Sen. Ryan asked Mr. Hindoiien if there was anything proposed that would lead to the elimination of schools. Mr. Hindoiien responded that the county wide levy has the potential for those effects. Sen. Ryan asked about the phasing out of school districts. Mr. Hindoiien responded that it was discussed, but they could not conclude that it was a hindrance.

Ms. Erickson reviewed the travel schedule for the Committee. Ms. Erickson also provided e-mails (EXHIBIT #7) to the Committee regarding the meeting in Yellowstone County. After much discussion recommendations were provided to staff and staff will present the final schedule at a later date.

## **PUBLIC COMMENT**

**Eric Feaver, MEA-MFT**, provided comments regarding the Governor's School Funding Study (EXHIBIT #8). The specific recommendations to the Committee were:

- Create a \$5000 per certified staff FTE entitlement
- Equalize elementary and secondary ANB
- Adjust basic entitlement on student population basis
- Fund inflationary increases in "fixed" education costs
- Develop incentives for school district annexation and consolidation
- Create a mandatory state funded school employee health care plan
- Demand full federal funding of special education and Title I
- Oppose further federal unfunded mandates

- Provide 2% multiplier of FAS at 30 years plus of teaching
- Permit up to two years of full-time post retirement teaching without penalty
- Establish loan reimbursement for teachers taking high demand/low supply positions

**Bob Vogel, Montana School Board Association**, stated that MSBA has retained John Augenblick for an adequacy study (EXHIBIT #9) and the Montana Schools Quality Coalition will take part in the study.

**Loran Frasier, School Administrators of Montana**, expressed thanks to the Council for their efforts on these issues. He said that some districts are very happy with the proposal created. He also said that the School Administrators of Montana do support MSBA's study and will be involved in that as well.

Ms. Erickson provided an updated schedule (EXHIBIT #6) for the Committee. Rep. Masolo moved that the schedule be adopted with Stevensville, Miles City, and Wolf Point as cities to be visited.

Rep. Facey amended the motion to included that if the Yellowstone delegation cannot concur on a location then the Chair of the Committee will make the determination. Sen. Nelson asked for a vote on the amendment. The motion passed 10 to 1 with Rep. Masolo voting no.

Sen. Nelson called for a vote on Rep. Masolo's motion. The motion passed unanimously.

#### **HOUSE JOINT RESOLUTION NO. 41**

After much discussion as to whether or not the Committee would like to pursue the issue, the Committee determined that a Subcommittee will be created composed of Rep. Ellis, Rep. Mangan, and Sen. Glaser.

Ms. Erickson provided to the Committee a document titled *Status of House Joint Resolution No. 41 Study of School District Territory Transfers* (EXHIBIT #10)

#### **MEMBER ISSUES**

Sen. Glaser informed the Committee that he and Sen. Ryan have been asked to participate in the MSBA adequacy study and asked Committee members if they would like to be kept informed of the proceedings. Sen. Nelson said that they would like to be kept informed.

Rep. Mangan said that it would be a good idea to let the Committee know what the experts are looking at because there is a significant potential for structural change.

#### **COMMITTEE BUSINESS**

Ms. McClure stated that there was no significant administrative rule review.

Ms. Erickson presented to the Committee the process for reviewing agency legislation. The Committee discussed the specifics of the process with Ms. Erickson with much discussion on whether the Committee should request bills they don't support. The Committee concluded that the process is flawed and they would like their concerns voiced to the Legislative Council.

Ms. Erickson then provided the Committee with updates on the SJR 22 Subcommittee (EXHIBIT #11) and the District Court Council (EXHIBIT #12).

Rep. Mangan asked Ms. Erickson if Mr. Rick Lewis, Court Administrator, could come to this Committee to provide an update on the District Court Council. Sen. Nelson concurred.

Rep. Masolo commented on the letter from the Commissioner of Insurance and encouraged Committee members to fill out the form and attend their local meetings. Sen. Nelson concurred.

Ms. Erickson provided an update on the Homeland Security meeting on January 24, 2002. Sen. Shea stated that she would attend.

The Committee discussed their remaining meeting dates and changed the June meeting date to June 11-12, 2002.

### **ADJOURNMENT**

The meeting adjourned at 3:30. The next meeting is scheduled for February 13, 2002.

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