



Education and Local Government Interim Committee

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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

November 2, 2001

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

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

Rep. Anderson
Rep. Branae
Rep. Mangan
Rep. Masolo
Rep. Peterson

COMMITTEE MEMBERS EXCUSED

Rep. Facey

STAFF PRESENT

Connie Erickson, Research Analyst
Eddy McClure, Attorney
Miko Owa, Secretary

VISITORS & AGENDA

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

CALL TO ORDER AND ROLL CALL

Sen. Nelson called the meeting to order at 9:00 a.m. Roll call was taken (ATTACHMENT #3) with all members present except for Rep. Facey.

ADOPTION OF MINUTES

Rep. Masolo moved that the minutes of October 3, 2001 be adopted. The motion passed unanimously.

LOCAL GOVERNMENT

Alec Hansen, Executive Director, Montana League of Cities & Towns, provided an update regarding House Bill 124 which changes the financial arrangement between state and local government. Taxes from such areas as gambling, motor vehicles, alcohol, and financial institutions were transferred to the general fund and then cities and towns will receive a quarterly entitlement payment. Mr. Hansen responded that this bill has stabilized local government finance and that the cities and towns are pleased with the result. There are some errors in the bill, but Mr. Hansen feels these problems can be adjusted during the 2003 Legislature. Mr. Hansen stated that HB 124 establishes a foundation of true partnership between state and local government which has not happened before.

Mr. Hansen then reviewed HB 409 which allows cities and counties to take the increase in health insurance premiums and put that on as a separate mill levy not subject to the limitations in 15-10-420. Mr. Hansen continued to state that he thought the Legislature realized that the increasing cost of health care and health care insurance was creating enormous budget pressures on local government, and some cities have used HB 409 and have raised their levies. However, Mr. Hansen continued that HB 409 provides a way to fund health insurance but does nothing to cut or stabilize the cost of health insurance. Mr. Hansen stated that he has been meeting with cities and counties and is now reviewing putting together a public agency health insurance trust similar to what was created for workers compensation and liability insurance in 1986. Mr. Hansen stated that his emphasis is on cutting administrative costs, educating users, and having the state and federal government deal with uninsured claims.

Mr. Hansen's next topic was power deregulation and the program which allows 23 cities and towns to buy electricity on the local market. He continued to state that in the first six months of this program, savings were approximately \$300,000. This program is still in effect, and these cities and towns have the opportunity to go back to Montana Power if necessary.

Mr. Hansen finished by urging Committee members to revisit SB 213 (local option sales tax) which would provide a fair way to fund local government and reduce property taxes without instituting a general sales tax.

Sen. Shea asked who purchases the power for the cities. Mr. Hansen responded that he does the purchasing with help from Tom Schneider. The advantage he had, was that his was a pilot program and they had the right to go back to the Montana Power Company under the buy back rate. The difference they are getting is the difference between the buy back rate and the

regulated rate.

Brad Simshaw and Larry Finch, Department of Revenue, spoke about HB 124 and the entitlement share payment to local governments (EXHIBIT #1). Mr. Simshaw stated that HB 124 does not create new revenue sources but changes the distribution of revenue. Mr. Simshaw continued to state that there has been few problems with HB 124 and that processing is much easier than other payment processes. In addition, Mr. Simshaw reviewed a memo from Kurt Alme, Director, Department of Revenue regarding problems with the drafting of HB 124.

Sen. Shea asked if the fact that district court funds were not included presented a problem to cities. Mr. Simshaw responded that this has not been a problem.

Hank Hudson, Department of Public Health and Human Services, provided an update on SB 339 regarding the state assumption of welfare. Primarily, Mr. Hudson stated that the three purposes of the bill were to require the department to submit to county commissioners a plan that describes how public assistance will work in their county, a process by which county commissioners can appeal the plan presented, and provide county government involvement in the hiring of key staff (County Director).

Sen. Shea asked what percentage has been cut from the budget over the last several months. Mr. Hudson responded that cuts have all come from federal funds and the cut was approximately 35%. Sen. Shea asked why these cuts were made. Mr. Hudson responded that the case load has increased by 900 cases, so the line items have to decrease to pay out cash benefits.

Sen. Nelson asked why there has been such an increase in welfare cases. Mr. Hudson responded that many of the people had been on welfare before, and now, employers are reducing their hours which allows them to come back on assistance even though they have earned income. Mr. Hudson continued to state that usually a recipient could not get unemployment insurance because they did not have enough hours to qualify.

Rep. Mangan asked about the cut in food stamps. Mr. Hudson responded that the food stamp issue has to do with a waiver received by the USDA in 1986. The waiver Montana received allowed the state to apply a standard utility deduction to all welfare recipients allowing Montanans to receive more food stamps. The USDA no longer allows for this waiver. Therefore, people who were receiving \$70 in food stamps are now receiving \$10. Rep. Mangan continued to ask what the state could do. Mr. Hudson responded that there is very little they can do other than put some TANF money into the food banks for emergencies.

Sen. Glaser asked Mr. Hudson how much additional money will come out of line item programs in HB 2 that are not statutory. Mr. Hudson responded \$1,223,000. Sen. Glaser then stated that he did not understand why the administration would not allow the law to dictate what they do. Mr. Hudson responded that the Department recognizes that HB 273 does require the transfer of TANF money into the housing fund, but doesn't necessarily require that to occur in this biennium. Sen. Glaser then stated that Mr. Greg Petesch contradicts what the Department is saying (EXHIBIT #2).

Sen. Butcher asked about the smart card concept for food stamp recipients. Mr. Hudson

responded that the program would be piloted in January and hopefully implemented in June. Mr. Hudson continued to state that there is no savings associated with this other than the small amount of postage.

Sen. Ryan asked about security measures associated with the card. Mr. Hudson responded that there is a pin number associated with every card and an 800 number that people can call if their card is lost or stolen. Sen. Ryan then asked if their purchases can be tracked. Mr. Hudson responded that the location and dollar amount can be tracked but not the individual purchase.

Connie Erickson, Research Analyst, Legislative Services Division, provided an update on SJR 22 (EXHIBIT 3) and SB 176 (EXHIBIT 4). Ms. Erickson spoke about the committees' most recent meetings and stated that she will continue to attend the meetings and provide updates to the Committee.

Sen. Shea asked who is on the District Court Council. Ms. Erickson responded that the Chief Justice and four district court judges are the voting members of the council. Non voting members represent the Juvenile Probation Officers Association, Court Reporters, MACO, and the Clerks of the District Court.

Rep. Mangan asked Mr. Finch if the District Court Council has been asking the Department of Revenue any questions about fixed or variable costs and how that works with HB 124. Mr. Finch responded that he did attend the first meeting of the Council and the Department of Revenue provided the Judiciary with the complete database that the Department has received from the cities regarding district court expenditures. In determining the fixed cost and the variable cost, that is the Council's issue and the Department of Revenue has not provided any input on that aspect.

MEMBER ISSUES

Sen. Butcher asked about welfare offices, transportation to welfare offices, and the cancellation of benefits. Sen. Butcher asked if a welfare officer could meet on the reservation to help alleviate this problem. Ms. Erickson responded that the issues will be brought up at the State Tribal Relations meeting in January.

Rep. Mangan updated the Committee about an issue regarding the county compensation board bill; in particular, the Attorney General's statement that the bill does not apply to consolidated government. Rep. Mangan continued to state that there could possibly be a challenge by an individual regarding that bill.

EDUCATION

Jeff Hindoién, Education Policy Advisor, Governor's Office, provided an update on the Public School Funding Advisory Council. Mr. Hindoién responded that his Council will have some recommendations for the Governor by December and asked how the Committee would like to see the final report presented.

Sen. Nelson asked how many meetings Mr. Hindoién had left. Mr. Hindoién responded that there is one meeting left. Sen. Nelson responded that the Committee would like the report shortly after

it was presented to the Governor and discussion of the report would take place at the January 11, 2002, meeting.

Sen. Ellis asked Mr. Hindoien to provide a brief recap of the meeting. Mr. Hindoien responded that issues of tax equity and HB 124 block grants were heavily discussed. On the tax equity issue, the Council is looking towards doing something different with the HB 124 revenue streams, rather than using a block grant form. They are also looking at the possibility of equalizing the tax burden through HB 124 or through county wide levies. On the units of funding side, they are primarily focused on the declining enrollment issue. To address this issue, the Council is looking at taking HB 124 revenues that are going out in block grants and using them in a different way. Other issues that have not been addressed fully yet are those of governance which include teacher salary schedules, consolidation questions, and distance learning.

Rep. Mangan asked if there are going to be any recommendations that a more in depth study needs to be done or is their going to be a band-aid approach to address the problem. Mr. Hindoien stated that the issue of adequacy needs to be addressed next.

Sen. Nelson asked if the Council is going to narrow the scope of its report before taking it to the public. Mr. Hindoien responded that that would be the case. Mr. Hindoien continued that there has been a working group established of school finance officials to discuss budgeting.

Rep. Masolo asked if Council minutes would be made available to the Committee. Mr. Hindoien responded positively and that the minutes would be available on the website as well.

Rep. Mangan asked if the Council specifically discussed how much money it will take to educate the students of Montana. Mr. Hindoien responded that he had hoped to get to that answer at the beginning of the process. However, they have not been able to address the question. Rep. Mangan stated that realigning some of SB 124 block grant money to address the declining enrollment issue would be based on current dollars that are budgeted. However, that won't take into consideration other issues discussed such as teacher salaries, so the Council is still looking at current revenues based on the Governor's budget. Mr. Hindoien responded that that was a fair assessment as the Council has been looking at issues in a revenue neutral fashion. Mr. Hindoien continued that what the Council is trying to do is come up with way to fix the current system and determine what the state needs to spend.

Sen. Nelson asked the Committee how they would like to facilitate the trips to present the Governor's plan. Ms. Erickson responded that the Committee has approximately \$36,000 dollars to operate in the interim. Therefore, there is enough money to take the entire committee on four 2-day meetings across the state. She continued to state that if the Committee were broken up then more meetings could be held.

Rep. Mangan asked if the Governor's office has money budgeted for this. Ms. Erickson responded that the Council is well dispersed across the state and may be able to attend the meetings, but the Committee can not pay for them.

After much discussion, the Committee determined that the January meeting would be held in Helena with subsequent meetings taking place elsewhere in conjunction with the presentation of the Council's plan to the public. Sen. Nelson specified that Committee members should present

their ideas to Ms. Erickson and Ms. McClure for travel, but that the general consensus seemed to be that a member of the Council would attend the meeting to present the Governor's plan and answer questions. In addition, the meetings should take place over a two day period, with the Committee addressing other work as well.

HOUSE JOINT RESOLUTION #41

Ms. Erickson then provided an update on HJR 41. In particular, she discussed how other states handled this process. In addition, she provided a copy of the survey distributed to interested persons and a summary of responses (EXHIBIT #5). Ms. Erickson commented that there were more people who probably wanted to respond but didn't have the opportunity due to other commitments and the short time frame between meetings.

Sen. Ellis asked if the current law was the law that is on the books. Ms. Erickson responded that current law is the law that is on the books that is unconstitutional.

Ms. McClure commented that the Supreme Court is not as concerned with the petition portion of the statute as that did not result in the actual transfer. More important, are the guidelines given to the person who will be making the decision.

Sen. Ellis asked if there is still impetus to challenge the law then it might be a different question that the court will be asking next time. Ms. McClure responded affirmatively, but stated that the Committee would at least have an outline of things they know they have to discuss. Sen. Ellis then asked if there was any research done to find out how far back territory transfer laws have been in place. Ms. Erickson responded affirmatively, but had no specific date.

Sen. Nelson asked if the Committee added criteria for the transfer, would that make the courts accept it. Ms. McClure stated that the Committee would have to go one step further and tell the person how to evaluate the situation.

Ms. Erickson felt that the Committee needed to decide if they wanted to rewrite the whole statute or just those portions that are deemed unconstitutional. Sen. Ellis responded that he felt it was appropriate to look at the entire statute.

Ms. Erickson then reviewed the survey by listing the topics, the responses, and who each person represented. The first question Ms. Erickson asked the Committee is who should be allowed to start the petition. After discussion, it was determined that registered electors who reside or own taxable real property in territory proposed for transfer should be allowed to start the petition.

Ms. Erickson then asked how many people should be required to sign the petition. After discussion, the Committee determined that two-thirds should be required to sign.

Ms. Erickson then asked what conditions must be met before a transfer can be considered. After much discussion, the Committee determined they would maintain the same language as SB 111 with the inclusion of language referencing the value of non-taxable Indian land or government land.

Ms. Erickson then asked what should be the role of the respective boards of trustees of the school districts involved in the territory transfer. After discussion, it was determined that more information was needed and that Ms. McClure would contact former Rep. Joe Barnett to discuss the Gallatin County impact fees.

Emil Neumann, former resident of Neumann Bench, expressed his gratitude to Sen. Ellis for bringing the territory transfer issue to the Legislature. He stressed that the Committee needs to come up with a bill allowing the public a process by which they can transfer territory.

James Smelser, Neumann Bench area, expressed his opinion that county lines should completely be erased when referring to school districts.

Bob Vogel, Montana School Boards Association, provided comments to the Committee (EXHIBIT #6) and spoke specifically on the fact that the Association wants to be sure that both the sending and receiving district has a say when territory is transferred.

Dave Puyer, MREA, commented that MREA holds a similar position to MSBA but would like an appeals process to be included.

Sen. Ellis asked Mr. Vogel how MSBA justifies their position in light of the Neumann Bench situation. Mr. Vogel responded that if we are going to allow school district boundaries to be changed, then we need to allow both the sending and receiving school district to approve those changes. He continued to state that the Neumann Bench transfer is going to be a difficult one, but they are committed to work on a solution. Sen. Ellis asked if Mr. Vogel had any proof that this is not a preponderance of the areas that this actually occurs in. Mr. Vogel responded that the only proof that he had was that his members continue to speak in favor having both the sending and receiving districts approve the transfer.

Ms. McClure asked Mr. Vogel if one district could submit the petition, or if both districts would have to approve the petition before it is submitted. Mr. Vogel responded that the transfer must be approved by both, but who signs off on the petition is a question that the Committee will have to decide.

Sen. Nelson asked the Committee if they did not want to give the sending school a way to vote on the transfer. After discussion, the Committee concurred that the receiving district must approve, not the sending district.

Rep. Anderson asked if the language in SB 111 would remain that if the transferring and receiving district approves the transfer then the process stops. The Committee concurred that that language would remain.

Ms. Erickson then asked who should make the decision as to whether a transfer should take place. After much discussion, the Committee determined that the County Superintendent should make the decision.

Sen. Nelson, stated that the remainder of the questions will be answered at the next meeting.

COMMITTEE BUSINESS

Pam Johler, Fiscal Analyst, Legislative Fiscal Division, provided background information on HB 142 that established a Joint Committee on Postsecondary Education Policy and Budget (PEPB) in 1991 (EXHIBIT #7). Ms. Johler continued to discuss potential higher education issues that could be addressed by a PEPB Subcommittee.

After much discussion, the Committee determined that it would form a PEPB Subcommittee with the following membership: Rep. Peterson, Rep. Branae, Sen. Butcher, Sen. Ryan, 1 representative from the Governor's Office, and 2 representatives from the Board of Regents. Ms. Johler will act as the staffer for the Subcommittee.

Ms. Erickson then reviewed with the Committee the Rules, Procedures, and Guidelines for Interim Committees, which are standard operating procedures for interim committees (EXHIBIT #8). In particular, Ms. Erickson reviewed the section of the document regarding proxy votes.

Ms. McClure then reviewed administrative rules on Vocational Education from the Office of Public Instruction. She stated that these rules have come in response to HB 134, which asked OPI to reform and amend some of their rules to confirm with the legislation.

CONCLUSION

Sen. Nelson stated that in January, the Committee will receive and discuss the report from the Public School Funding Advisory Council, will discuss the schedule for holding public hearings on the report, and will continue with the questions presented in HJR 41.

Ms. Erickson asked if there were any local government issues. Ms. McClure stated that she would speak with Rep. Mangan about his issue on county compensation boards for consolidated governments. Ms. Erickson then commented that there have been two Attorney General opinions regarding SB 242 and Ms. McClure provided the last opinion to the Committee (EXHIBIT #9). SB 242 prohibits a municipality from extending its jurisdiction beyond its boundaries for the purpose of enforcing building codes.

Sen. Butcher commented that an issue this Committee may want to address from the State-Tribal Relations Committee is the fact that school board trustees are sending their children to schools other than the one their parents are governing. Sen. Butcher continued that the issue of too few qualified Native American teachers was discussed and the State-Tribal Relations Committee would like this Committee to address that problem. Ms. Erickson stated that she would research the issues.

ADJOURNMENT

The meeting adjourned at 2:40 p.m. The next meeting is scheduled for January 11, 2002.