MINUTES

MONTANA SENATE
59th LEGISLATURE - REGULAR SESSION

JOINT SELECT COMMITTEE ON EDUCATION FUNDING

Call to Order: By **CHAIRMAN DON RYAN**, on March 8, 2005 at 10:00 A.M., in Room 335 Capitol.

ROLL CALL

Members Present:
Sen. Don Ryan, Chairman (D)
Rep. Holly Raser (D)
Sen. Bob Story Jr. (R)

Members Excused: Rep. Bill E. Glaser (R)

Members Absent: None.

Staff Present: Connie Erickson, Legislative Branch
Eddye McClure, Legislative Branch
Lois O'Connor, Committee Secretary
Jim Standaert, Legislative Branch (Excused)

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Discussion on Education Funding.

{Tape: 1; Side: A; Time Counter: 0.3}

Subcommittee staff provided a copy of the Governor's K-12 Public School Funding Study Advisory Council: Report and Recommendations (2001), a copy of the State of Wyoming: SCHOOL FOUNDATION BLOCK GRANT as of 2004 Laws, and a copy of K-12 Public School Funding Study: Structure of School Funds Working Group Report (2001). **Steve Johnson, Bozeman Public Schools,** will discuss the Governor's School Funding Council recommendations at the March 9, 2005, meeting.

EXHIBIT(jes51a01)
EXHIBIT(jes51a02)
EXHIBIT(jes51a03)

Subcommittee members discussed the following:

(1) Create a countywide levy to fund the property tax portion of the basic amount for school equity (BASE) budgets of all school districts in a county.

Lance Melton, MT School Boards Association (MTSBA), said that the Education and Local Government Interim Committee modified this recommendation and changed it to a statewide levy. There is nothing relevant in the Constitution about county boundaries. There is either the state's obligation or the school district's local control.

SEN. DON RYAN, SD 10, said that he was unsure whether the discussion surrounding a statewide mill levy at the time centered around what the state could afford financially or what could be afforded politically.

(2) Expand county retirement levy to fund district health insurance costs.

Mr. Melton said that MTSBA argued that it was inappropriate to on one hand, put in law that local governments could fund health insurance needs by accessing a countywide levy and, on the other hand, say except school districts.

SEN. RYAN said that discussions on this issue have moved on to a statewide concept, but the state continues to fund the same way. **Mr. Melton** said that counties continue to fund the same way, but it is an inequity to have public school employees be the only employees to not have a guaranteed funding mechanism to provide health insurance. However, he was unsure whether the solution was to increase a county levy to pay for it. At the time, the Advisory Council was focused on the specific constitutional

exclusion--except school districts. **SEN. RYAN** said that the best thing to do would be to say that the discussion has moved on to the statewide concept.

{Tape: 1; Side: A; Time Counter: 7.8}

(3) Use a weighted guaranteed tax base (GTB) calculation for both the countywide BASE budget levy and the county retirement/insurance levy.

SEN. RYAN questioned whether the classroom entitlement concept could include retirement and health insurance costs.

SEN. ROBERT STORY, SD 30, said if the thought process at the time was leaning toward countywide school districts, then countywide levies make sense. Countywide levies in any category are odd ducks because people in one school district are helping pay the cost of another school district. **Mr. Melton** said that in 2001, there was no move toward countywide consolidation. It was explicitly about, if things are equalized on a county basis, there are fewer loser districts than if equalized on a statewide basis. It was pure political expediency.

Referring to the weighted GTB calculation, **SEN. STORY** questioned whether a completely new GTB system would have to be developed for equalization if the state moves away from weighting student populations in the funding formula.

(4) Adopt the transportation funding structure proposed in HB 163 from the 2001 legislative session.

Eddye McClure, Legislative Services Division (LSD), said that HB 163 failed in the 2001 Legislative Session but its provisions were adopted under SB 424 in the 2003 Session.

(5) Calculate the average number belonging (ANB) for a district with declining enrollment by using average enrollment over a 3-year period.

(6) Provide an annual inflator tied to the consumer price index (CPI) for the basic entitlement, per-ANB entitlement, and special education funding.

Eric Feaver, MEA-MFT, said that ANB averaging is included in SB 177. **Mr. Melton** added that school districts need to know what the new funding structure is. If the funding system is based on ANB, calculating an average is important. If it is based on a classroom unit, the classroom does the averaging because the

average is deliberately calculated based on the cost of delivery to the number of students in the classroom.

{Tape: 1; Side: A; Time Counter: 14.9}

Mr. Feaver questioned how averaging and soft caps could be rationalized. Which is the better outcome for school districts--being continually over their maximum budgets, while at same time, cutting back their budgets to where they were in the past, or fall off a cliff. In comparison, averaging makes more sense. **Mr. Melton** said that soft caps came along because the state recognized that it did not have a handle on what the funding formula did in relation to decreased costs or decreased enrollment. He felt that if the Subcommittee came up with a classroom unit concept that is deliberately calculated to deliver services to children in the classroom, he saw no need for soft caps. **Mr. Feaver** agreed.

SEN. RYAN said that the state has nothing in its current funding formula that is educationally relevant. It is just dollars going to districts. One of the reasons for the caps was because of rich and poor districts. The state had to reign them in because of the funding disparities between them. He hoped that the new formula would get the state away from the cap issue. **Mr. Feaver** said that the funding formula did reign in school districts. He said that the formula desperately needs to be changed, and unfortunately, none of the bills introduced this session do that. All they do is perpetuate the system. If the legislation is not linked to another construct or funding form, then the state continues to move forward with a formula that it knows does not work and does not meet constitutional muster. In addition, the state continues to apply exceptions--over-max, averaging ANB, soft caps--to weasel its way out of dealing with the reality that the current funding formula does not work.

Mr. Melton said that schools can count on losing 2,500 children every year and into the foreseeable future. The state can count on receiving $30 million over the next two years while school districts can count on losing that same amount in state aid. **SEN. RYAN** said that school districts are so tied to the old formula that they refuse to think that the old formula is going to change.

{Tape: 1; Side: A; Time Counter: 22.3}

REP. HOLLY RASER, HD 98, said that the state does not have a new funding formula to date. The Subcommittee's focus is supposed to be on what the new formula is going to be, not how to bridge the gaps. The faster that the Subcommittee can come up with what the

new formula is going to be, then other things can be incorporated into it. Although she understood the frustrations, she informed the stakeholders to not expect the Subcommittee to have a new formula at the end of the session. **REP. RASER** added that she would like to forget the old formula all together and not think about it during the Subcommittee discussions.

(7) Use the HB 124 block grant for debt service to expand school facility payments to all low-wealth school districts that have outstanding general obligation bonds and to increase the school facility payment.

REP. RASER asked if the Subcommittee was going to incorporate the phasing out of the HB 124 block grant. **Mr. Melton** said that the state could quit collecting and distributing it, let it be collected locally, or go back to the law that existed before HB 124 was enacted. If it is kept, it must be distributed equitably. With regard to school facility payments, it has already been done by increasing it 100%--from $4 million to $8 million by converting the HB 124 block grant.

SEN. STORY said that the HB 124 block grant can be looked at as (1) state revenue or (2) payment in lieu of taxes because that is what it is--tax revenue that the state is replacing because it took the districts' tax base away. It is similar to impact aid money. If the HB 124 block grant is considered local money, districts will go back to where they came from. If it is considered state money, then there is the equalization issue. He added that some people believe that anything below 80% is state money because the state requires it to be raised.

Mr. Feaver inquired when a new funding formula could be expected. **SEN. RYAN** believed that the Legislature could create a new funding formula before the end of the session, and it could be available by the second year of the biennium.

{Tape: 1; Side: B; Time Counter: 0.5}

Mr. Feaver asked if the Subcommittee had articulated what goes into its classroom entitlement concept. **SEN. RYAN** said that would be discussed next week. His idea of a classroom entitlement includes teacher salaries, retirement, and benefits to get Montana to a point where it can be competitive with other states.

(8) Allow school trustees to allocate the remaining balance of the district's HB 124 block grants to any budgeted fund of the district.

Mr. Melton said that this recommendation is outdated because it does not satisfy the obligation of the state because if it is touched, it must be equalized.

{Tape: 1; Side: B; Time Counter: 3.0}

Mr. Feaver asked if the Subcommittee hoped to have a new funding formula that will be ready to go online in 2007. **REP. RASER'S** hope is to have something in place that will automatically go with the 2007 Session. **Mr. Feaver** said that there are components in other pieces of legislation that have already been introduced in this session. He asked about the status of SB 147 and Indian Education For All and he asked how the Legislature was going to deal with the Governor since the Governor is not buying any of it. **SEN. RYAN** said that the Legislature will deal with the Governor.

{Tape: 1; Side: B; Time Counter: 4.7}

Mr. Melton said that he had concerns when speaking of the consolidation of funds. He said the general fund is capped and requires a vote while transportation can be done without a vote. He asked if districts were going to lose that in the process of consolidation of funds. **SEN. RYAN** said to forget about what funds are capped. The state will have a new funding formula and a new way to put the funds together, resulting in the caps going away. **Mr. Melton** said in the process of consolidating the funds, the Legislature needs to answer what types of changes it is going to enact because there are huge differences among school districts in terms of flexibility. He added that school districts can levy whatever is necessary to pay for transportation and retirement, but cannot levy whatever is necessary to fund the general fund or compensated absence liability. **Ms. McClure** said that the Legislature will have to make some huge policy choices. **Mr. Melton** said that school districts fear that every fund that has flexibility currently will not have it after the consolidation of funds.

{Tape: 1; Side: B; Time Counter: 8.6}

SEN. STORY asked which funds were voted on. **Mr. Melton** stated the following:
general fund--voted;
transportation fund--formula driven but no vote required;
retirement fund--split issue with the provisions of SB 424 enacted in the 2003 Session;
compensated absence liability fund--no vote, must transfer money out of a district's general fund to pay for it;

litigation reserve fund--nonvoted levy, when a district has exhausted all funds and insurance proceeds necessary to pay for a litigation damage award or settlement;
bus depreciation reserve fund--no vote, can only be used to replace buses that are used for transporting students to and from school;
building reserve fund--entirely voted;
technology acquisition and depreciation fund--funded in part with timber money, but if used to depreciate equipment, it is based on the same formula as bus depreciation but requires a vote;
building fund--entirely voted but includes miscellaneous funds, such as lease proceeds;
metal mines tax reserve fund--nonlevy revenue that goes to certain districts;
mining impact fund--same as the metal mines tax reserve;
traffic education fund--fees from participation in traffic education programs;
miscellaneous programs--nonbudgeted fund, funds can be spent according to whatever the limitations are of the money deposited in it;
adult education fund--mill levy that can be raised without a vote;
tuition fund--permissive and requires no vote;
nonoperating fund--no vote but very limited in its use;
debt service fund--pays for bond issues;
flexibility fund--has a state component when it comes to districts and with the state component comes an additional 25% that can be voted;
school food service fund--fees from students and federal money,
interlocal cooperative fund--nonvoted levy, can transfer money from other funds of the district but used for the sole purpose of cooperating with other school districts on expenditures;
internal service fund--unknown;
impact aid--federal allocation based on any federal land, such as the amount of Indian trust land located within a district or Malmstrom Air Force Base, and used to replace the lower taxable value of districts;
enterprise, agency, and trust funds--unknown;
endowment fund--donated money--if donated without restrictions, districts can only spend the interest and not the principle--if given with restrictions on how to spend it, districts can spend the principle.

{Tape: 1; Side: B; Time Counter: 16.0}

SEN. STORY asked if schools received timber money. **Mr. Melton** said yes, but the amount is determined by the counties, and counties have a range of options for allocation.

SEN. RYAN said that he could understand why a districts would like to have permissive levies in order to fund mandates. He asked how many levies had to be permissive. **Mr. Melton** said that in the early 1990s, the Legislature identified as permissive, nonvoted everything that it deemed necessary but could not pay for at the state level, such as transportation and bus depreciation. **SEN. RYAN** said that one of the reasons the state has caps is because of the inequity of districts to levy necessary mills.

{Tape: 1; Side: B; Time Counter: 22.1}

SEN. STORY said that mills have something to do with tax burden but not always. There are places in Montana where people pay for four mills and pay less than he might pay for one mill because of the value of his home.

SEN. RYAN asked if MTSBA agrees with any of the Working Group's proposed consolidated funds. **Mr. Melton** said that he liked all of the consolidation ideas if it does not come with a loss of school districts' existing flexibility.

{Tape: 1; Side: B; Time Counter: 26.6}

Mr. Feaver said that MEA-MFT would resist the consolidation of the general, transportation, retirement, compensated absence liability, and litigation reserve funds into a general operating fund because it would be a huge mistake. **Mr. Melton** said not necessarily. The Working Group was not making any value judgments as to whether every fund should be voted. What it was talking about was making everything consistent and have a permissive-levy basis for most of the funds. He added that Montana has more funds than any other state in the nation. It is micro-managed to death with budgeted and nonbudgeted funds. **Mr. Feaver** asked why the Working Group combined the general fund with other nonvoted levies. **Mr. Melton** said that the Working Group was trying to say "What is the base operations of a school district?" The general fund covers 70% of school expenditures and virtually everything in terms of educational delivery. Other states have a general fund, a capital fund, and a miscellaneous fund, and the states do not micro-manage beyond those three funds. If the funds are going to be consolidated, the Legislature will have to make some big value judgments because they are funded from entirely different sources--either the state, the county, the district, or a combination thereof in different quantities.

{Tape: 2; Side: A; Time Counter: 1.0}

Dave Puyear, MT Rural Education Association (MREA), was unsure how some of the funds could be consolidated without allowing a vote. However, when the state does that in the new general fund, things are being voted on that never had to be voted on before. He felt it would be very troublesome at the local level, and he believed that it would not work.

REP. RASER said that the issue is what the Subcommittee wants the funds to look like because it is trying to look at what is going to be the most efficient way to run schools. **Mr. Melton** said one of the biggest enemies of local control is the 25 different funds. The funds should be narrowed down and flexibility should be increased.

{Tape: 2; Side: A; Time Counter: 9.1}

REP. RASER asked what other states have done and is there a pattern of best practices. **Ms. McClure** said that there is information available from other states, but at some point, the Subcommittee must narrow it down to what Montana's Constitution and its political constituents say otherwise they will just be comparing apples and oranges. **REP. RASER** requested that the Subcommittee discuss the simplest way to administer the funds that are given, what are the different accesses to the funds for school districts, and what percentage of any expense that a school district has is the state's responsibility.

{Tape: 2; Side: A; Time Counter: 13.4}

Madalyn Quinlan, Office of Public Instruction (OPI), said that OPI reports to the federal government under a concept of current expenditures and long-term expenditures. Current expenditures are considered to be any expenditure thought to be part of the annual operation and maintenance of a school district. Districts will not necessarily spend down every dollar every year and would expect that money to roll over from year to year to pay for operation and maintenance. Long-term expenditures are money that might be accumulated over time in a savings account. Districts would expect variations in expenditures from year to year because it is not the same amount every year. If a state comparison is done, it should be done on a current and long-term expenditure concept per pupil. The Funding Working Group's struggles were the additional local add-ons compared to the state's and what was permissive and what was not.

Mr. Puyear asked if the Working Group discussed whether the proposed general operating fund would be voted or not voted. **Ms. Quinlan** said that the Working Group struggled with that issue, and it eventually brought the Group's work to a halt.

{Tape: 2; Side: A; Time Counter: 17.7}

REP. RASER said that the Subcommittee should also discuss the equalization of local levies. **SEN. RYAN** said that one of the K-12 School Renewal Commission's recommendations was to go to a homeowner-equity system which takes away the inability of districts to say that they are a rich or poor district. **Mr. Melton** said if the Subcommittee is going to say on a conceptual basis that it is going to have the same number of mills raised across the state in order to fund the statewide median, it would take 289 mills. All districts over the 289 mills would see a reduction and those below 289 mills would see an increase. **SEN. RYAN** believed that 75% of the people who pay taxes would see a tax decrease. **Mr. Melton** said they would if it resonates the same way as it does in the general fund, but there is a real "doozy" for those who are not within the 75%.

{Tape: 2; Side: A; Time Counter: 22.1}

Mr. Puyear said if the Subcommittee looks at any system that has a very equalized structure of school funding throughout the nation, almost every one has included some variance for the amount of money available or the amount that they have to contribute. **SEN. RYAN** said that SB 152 allows for those adjustments based upon the need of a particular district.

REP. RASER said that it also depends on the desires of the local districts. The state will, either by direct support or GTB, help districts with a basic system. If districts want something over and above that, then they can locally vote it. Besides the general fund, there would be a separate fund just for districts that want to have more than what the state is going to contribute to. **Ms. McClure** said that if the state tells districts to do that, it must be careful to not base it on "rich/poor". **REP. RASER** said she would like to see the Subcommittee focus on the best way to operate the funding system and the best way for schools to access the funds rather than focus on the restrictions that the current system imposes. The Subcommittee can then discuss the statutory changes needed to provide flexibility for school districts.

{Tape: 2; Side: A; Time Counter: 28.9}

Mr. Melton felt that anything that the Subcommittee subjects to a vote should be considered a frill.

SEN. RYAN said that tuition is an issue because the state requires a district to provide services to a student who does not live in that district. The ANB funds go to the district providing

the service while the parents are paying taxes in the other district. Currently, you have districts that waive tuition because they want the ANB per student. **Mr. Melton** said that tuition is a proxy for the over-BASE taxes of a district. **SEN. RYAN** said that if tuition is waived, small schools will eliminate their local schools because the state is making it affordable for their children to go to another school that provides more services. He did not believe that tuition was educationally relevant. **Mr. Melton** said that some MTSBA members would be unhappy with eliminating tuition. However, the concept of having public school choice is a more viable alternative to having people create charters that will eviscerate local control. If the Legislature says that within the public school system it allows free choice to reign, it has short-circuited a major argument against public schools that he believed is specifically designed to destroy them. **Mr. Puyear** said that there are pockets of tuition throughout Montana, but across large portions of the state, there are great school choices. If children on the High Line do not like one school, they can march right down the road to the next one.

{Tape: 2; Side: A; Time Counter: 4.3}

Mr. Melton thought it would be interesting to see what the tuition levy was before and after the 2001 law was enacted--the state eliminated cross-county tuition paid at the state level and reduced tuition by one half.

REP. RASER said that voted levies, permissive levies, and what is direct state aid has to be considered so that when the Subcommittee reviews those funds, it can determine which fund is going to be funding a basic education. **SEN. RYAN** said that the Subcommittee has to be very careful not to say that this community can afford frills and this one cannot. It must ensure equalization, and it cannot let the BASE drive the maximum. If 95% of the districts are spending 95% of the budget authority, 95% has to become the new median, and the people who do not want to spend money on schools must move up to the 95%. Current law allows districts to budget at 80% and not spend it. **Mr. Feaver** said that if BASE is redefined as just described, it would precipitate that.

SEN. RYAN said that the Subcommittee will make recommendations to staff on the consolidation of school funds by the end of the week.

ADJOURNMENT

Adjournment: 9:45 A.M.

_____
SEN. DON RYAN, Chairman

_____
LOIS O'CONNOR, Secretary

DR/lo

Additional Exhibits:

EXHIBIT(jes51aad0.TIF)