

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
59th LEGISLATURE - REGULAR SESSION**

SUBCOMMITTEE OF THE COMMITTEE ON EDUCATION

Call to Order: By **REP. JOE MCKENNEY**, on March 22, 2005 at
3:24 P.M., in Room 137 Capitol.

ROLL CALL

Members Present:

Rep. Kathleen Galvin-Halcro, (D)
Rep. Joe McKenney, Chairman (R)
Rep. Jon Sonju (R)
Rep. Jeanne Windham (D)

Members Excused: None.

Members Absent: None.

Staff Members Present: Eddye McClure, Legislative Branch
Nina Roatch-Barfuss, Committee Secretary

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

Committee Business Summary:

Hearing & Date Posted: SB 198 as Amended 3/16/2005
Executive Action: None

HEARING ON SB 198

REP. GALVIN-HALCRO explained to the Committee why she had rewritten the bill. Two years ago she had heard in testimony that **HB 449** intruded into an area that was being addressed in Montana public schools. She heard that school districts did not need a law requiring them to do what they were already doing. When she asked the Education Committee members to bring in copies of the harassment policies from the school districts that they represented, two-thirds of the districts did not have a policy in place. Therefore, she questioned whether Montana School Boards Association (MSBA) and the Board of Public Education (BPE) were truly doing what they told the Committee they had been doing for the past two years. These two agencies had said there were templates in place for districts that wanted to have a policy and that they provided them to the districts. The agencies offer to work with the districts or the districts can come up with their own policies. Yet, two-thirds of the districts did not produce a policy that was in place.

The REPRESENTATIVE wanted to know why this situation existed. Her desire was that the Board of Public Education and MSBA and anyone else would make sure that every kid in the State of Montana had a safe place to go to school every day. There is a policy in the Great Falls school building she works in and yet she knew that all children are not safe in the building. The staff in her building does a survey each year to find out if the students feel safe and they find out why some student don't feel safe. She wanted it known that the state was not doing enough to see that all students feel safe in school surroundings. She didn't want to see the onus for the lack of safety put on the legislature but rather the onus put on MSBA and the BPE. She wished to give every district across the state the opportunity to come up with its own plan and if the district needs training, the BPE should be there to help it. The BPE and MSBA had related to her in the 2003 and 2005 Legislative Sessions that a harassment policy was in place in each school district. In her school building there is no training available to the kids or teachers. She wants to know who the agencies are training. She believed there was a huge breakdown and she wanted to know why because she didn't want kids going to school and not feeling safe.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 5.6}

CHAIRMAN MCKENNEY asked Eddy McClure to review the amendments for the people present.

Eddy McClure had prepared a gray bill with the amendments worked into the original bill. Each member of the Committee had received a copy. She explained that **REP. GALVIN-HALCRO** had asked

her to simplify the original bill into one section and that was what she had done. The preamble to the bill is not law and not binding on the legislature. Section 1 of the bill was left in tact. Sections 2, 3, 4, and 5 had been stricken. Technically, what she had done was create a new Section 2, which is a harassment policy and a report to the legislature. She had picked up some language from each of the sections that had been stricken and put them into one section. The direction would now be for the BPE to direct each school district to adopt a policy. She had picked out some of the items that might be in a policy that the districts would follow. The bill would state that, upon request, the BPE would be required to report to the Interim Education and Local Government Committee on the number of school districts that had adopted policies and other information.

EXHIBIT (edh63a01)

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Proponents' Testimony:

Betty Kijewski, Montana Safe Schools Project which is part of the Montana Human Rights Network, related that she trained staff in schools on bullying and harassment issues. She had worked on this specific issue 90% of her time. In focusing on the purpose of the bill, she wanted to see the environment where Montana children spend 7 1/2 hours a day changed and on what is good for the students. Students need to be able to identify a policy, see that their school will stand up for them when they are being targeted, and they need to be able to ask for help. She had two concerns in the amended bill. She could not find a definition of harassment or bullying in the amendments. She recognized that Section 4 of the bill had a definition but she felt that was defining what the bill meant by those words and that it was not requiring any new or adopted amended policies to contain a definition. She testified that out on the school grounds, people are concerned and confused about what bullying looks like. They want to be able to identify the behavior as being different, because bullying is different. She felt it was important that any policy have a definition of what is being talked about. Her other concern was Section 5 of the original bill. It talked about school personnel responsibilities. That section had been stricken by the amendments. She notified the Committee that a teacher must be required to report; and if they are not already required to do so, she said, "What's the point?" She claimed that without the teacher reporting the incident, the child being bullied was left in a very difficult situation. She informed the Committee she could support the bill if her suggested changes were made.

{Tape: 1; Side: A; Approx. Time Counter: 8 - 14.8}

Linda Gryzzan, Montana Women's Lobby, informed the Committee that she had visited with Ms. Kijewski before the meeting and desired to walk the Committee through the changes in the bill that they were interested in. On Page 3, Line 30, (the new Section 5), the part crossed out would be included and it would include the necessary reporting and retaliation. On Page 4, just after Line 10, where it says, "The board shall ensure that each district's policy . . .," the Committee could insert the definition of harassment, intimidation and bullying that might not be less inclusive than the definition provided in Section 4. Section 4 is Line 13 on Page 5. With those changes, she could support the bill. **REP. MCKENNEY** assured her that the Committee had followed the intent of her requested changes.

Eric Schiedemayer, Montana Catholic Conference, reported that his organization could live with the bill as written with the amendments. He was comfortable with Ms. Gryzzan's changes.

Opponents' Testimony:

Lance Melton, Montana School Boards Association (MSBA) wished to clarify the basis of their concerns for the legislation without getting into the underlying merits of the bill. He wished to respond to the inaccurate characterization of MSBA's position as stated in the bill and in the amendment SPONSOR's comments. He testified that MSBA had never contended that bullying did not occur in public schools. MSBA had contended that bullying is the responsibility of school boards to govern the district and provide for the protection of students in the district. Part of that responsibility involves disciplining students. He felt that among their legal staff, the two most important aspects that they are involved in are helping school districts discipline children who have violated the rights of others and helping them discipline staff.

On the first page, the third paragraph, there is some sort of contention that MSBA did not see a problem with harassment, intimidation or bullying in the schools. He said, "That is not the case." He declared that he felt the legislature was considering the wrong solution to the problem. By the SPONSOR's own admission, the Great Falls School District has a policy and bullying still occurs in the school. He felt the problem would not be solved by adopting a very specific mandated policy that was designed to protect the rights of students. He explained that there are a variety of ways to protect the rights of students. He would be very comfortable if the bill embedded Title 20-5-201, which says that bullying or harassment can be the basis of suspension or expulsion of a student. That situation would leave it in the hands of the school district. It would

give the school district all the tools that it needed to protect the children to the best of its ability. He believed the legislature was reacting to a problem and there was no way to prevent the problem by adopting a policy. It required a persistent reaction and the school must do the best it can to protect the rights of students and make the school as inviting as possible. It was his belief that elected school boards who had run on that platform were in the best moral position to determine how to do that for the children of their community. He hates to get into discussions about relative authority because if he was a legislator and he heard, "That's none of your business," he would be offended. There is a line to be drawn.

MSBA provides model policies for school districts and have for several years. They include two different alternatives for an intimidation and harassment policy. He described what was contained in the policies. He said he was troubled when a law was written containing very specific things that may not foresee all the different circumstances that can exist in the schools. He would also like to challenge the contention that two-thirds of the Montana School Districts have no policy on harassment. He believed that to be unsupported by what he had heard in working with MSBA members. He believed there are a variety of ways to get to the policies. The harassment policy might be included in the school handbook, in the discipline policy, etc. MSBA offers training in those areas for the school board officials but they are not mandatory. There is no money in a school's budget for such training. There are words in the bill that could be defined many ways and cause a great deal of grief to district boards. He felt words like "reliable, prompt, and retaliate," created circumstance for lawsuits. MSBA would be more than happy to assist the legislature and take their suggestions on how to best articulate the viewpoint through their membership and increase the number of school districts that address the issue in the process identified in the gray bill.

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Steve Meloy, Executive Secretary for the Board of Public

Education (BPE), informed the Committee that both times he had an opportunity to testify to the bill he rose as an opponent right after the proponents, only to say that the he and the board had not disagreed with what had been identified as a bullying problem in school districts. It was their position that each district should have a good harassment and bullying policy. He wished to clarify that he had never testified that the BPE was sure that bullying was not happening in the school districts. He had said; "Never, since I have been with the BPE, nor in any historical research that I have done, have I found anybody bringing the problem to the board." He had heard the SPONSOR say, "We asked and nothing happened." He said, "Nobody has asked the board."

He testified that as far as the gray bill goes, he appreciated the work done on it, to place the BPE in the loop. The problem he saw was the language that said, "...the legislature mandates to the board to mandate to the school district..." He felt the BPE was just a cog in the loop. He believed the bill had taken the discretion that the board had, the incredible public and educational input which the board had when it did anything, completely out of the loop. He indicated that the Committee had taken that upon themselves.

Mr. Meloy declared the bill was a direct challenge to the BPE's rule making authority and power of general supervision because he wondered what was to stop another bill to come to them saying, "We direct the BPE to direct all the school districts to reduce their operating budget by 5%?" What would stop the legislature from seeking to change school district policies? He said it was a bad way to do business in Montana when there is a Board of Public Education that is as dedicated as the present board is.

He asked the Committee to write him a letter or send him a resolution. He would see to it that it was before every board meeting as long as it took to remedy what had been perceived as a problem. It would then filter to the districts through all the collaboration that they have with the educational community through a public hearing process as it ought to happen.

{Tape: 1; Side: A; Approx. Time Counter: 26.3 - 30}

{Tape: 1; Side: B}

He admired what the Committee was trying to do but felt the manner being used would set a bad precedent in the way it was being done.

Kathy Bramer, Office of Public Education, representing State Superintendent Linda McCulloch, testified that the positions that had been heard from Lance Melton and Steve Meloy reflected how the State Superintendent felt about the bill. She said there was a difficulty with how the bill had been framed because of the direction that would be given to school districts in the first version of the bill and now in the gray bill to the Board of Public Education and to school districts. The Superintendent was sympathetic to the issues addressed in the bill and the impact of bullying and intimidation in local schools. She said, speaking for the Superintendent, she knew the Superintendent would be happy to take the issue to the BPE on behalf of the Committee.

Rachel Roberts, Montana Family Foundation and Focus on the Family, informed the Committee her organization had been tracking the bill since the beginning of the session and rose in opposition to it.

Informational Testimony: None

Questions from Committee Members and Responses:

REP. WINDHAM asked Rachel Roberts why her organization was against the bill. **Ms. Roberts** remarked that the situation needed to be regulated by the local school districts. **REP. WINDHAM** asked her if they could support a bill that made it clear that the situation was going to be handled by local school districts. **Ms. Roberts** felt it was already in place in the local districts. She didn't feel there was a problem.

{Tape: 1; Side: B; Approx. Time Counter: 0 - 5.4}

REP. WINDHAM remarked that she did not know what percent of the districts had the policies they talked about. She did believe that the hearing on the bill indicated a problem did exist. It was her position that it should be handled by local control. If the Committee did not pass the bill, she wanted to know what guarantee Mr. Meloy could give as to what the BPE would do in the future to ensure that every school district would adopt a policy for harassment. **Steve Meloy** informed her that he would first get it on the BPE's agenda. He felt the Superintendent of Public Instruction should take it to the BPE and then let the board decide how to proceed.

REP. WINDHAM asked Mr. Meloy how long it would take to get policies in place at the school board level. **Mr. Meloy** said if it was a matter of promulgating a rule, probably sixty to ninety days would be sufficient time.

{Tape: 1; Side: B; Approx. Time Counter: 5.4 - 8.2}

REP. SONJU questioned Mr. Meloy as to whether he had seen legislation like the bill in the past. **Mr. Meloy** said that he didn't recall such legislation from the last session. **REP. SONJU** reminded him that **REP. GALVIN-HALCRO** had indicated there had been bills in the past, and he was worried about the fact that the BPE had failed to recognize the problem. He said he liked the bill because there had been a previous bill and the problem had not been addressed. He asked **REP. GALVIN-HALCRO** if she would concur with that information. **REP. GALVIN-HALCRO** said it was **HB 449** and heard on February 5, 2003. **REP. SONJU** asked if it would take 60 days to see that policies were in place, why hadn't anything been done in two years. **Mr. Meloy** informed him that he did not know anything about the bill being referenced. He said he could almost guarantee that the BPE wasn't mentioned in that bill hearing.

REP. SONJU wished to redirect his questions to Lance Melton. He wondered if it was safe to say that not all school districts have a harassment policy. **Mr. Melton** replied that he didn't know specifically that every school district in the state had such a policy. **Mr. Melton** felt it was safe to contend that there was a school in the state that did not have a policy. **REP. SONJU** wanted to know if it was safe to say that every school district should have a policy. He agreed that there was no legislation that would stop bullying in the schools.

He had received a letter of testimony from a Ms. Jennifer Hendricks. She is a board member of Montana Gay and Lesbian's Rights Organization. Her letter mentioned that "Anything a school does to make schools safer for kids is going to translate into making schools less exposed to liability. If you act according to what I think is your main goal, to protect kids, you will automatically protect schools from lawsuits, because fewer kids will get hurt and because a model anti-harassment policy will create an assumption by judges that schools have taken important steps to protect students." The **REPRESENTATIVE** reminded Mr. Melton that he had said there was no money for training but he wondered if there was no policy set in place, what the cost would be to Montana taxpayers if there was a lawsuit. **Mr. Melton** felt Ms. Hendricks was talking about the original version of the bill, the cost to the taxpayers for the original bill would be substantially more for the taxpayers than if there was nothing in statute. The original bill was a "field day for attorneys." He again emphasized the words in the bill that he felt would be vulnerable to lawsuits.

When the state gets down on a legislative level to deal with an issue that requires fine tuning on a day-to-day basis, the state is not in a position to do it methodically. The new bill has a very specific standard; he felt that opened it up to the same problems he had just talked about in the original bill. School districts are magnets for lawsuits because they have adequate resources to pay them even if they are at nuisance value. He did not believe that legislation mandating that a school district adopt a policy in a specific way would be helpful in solving the liability questions. He felt the policies that MSBA had adopted and refined were adequate and MSBA had been working to keep them current.

REP. SONJU asked Mr. Melton if he felt that a school with a policy was more likely to have a lawsuit than a school that did not have a written policy. **Mr. Melton** answered that the school is responsible for the student on the way to and from school and during school and that is the basis for the school's liability. The absence of the kind of policy discussed in the bill does not

change the school's liability which is written in present law.

REP. SONJU asked, "Then is your answer, no?" **Mr. Melton** said, "Correct."

{Tape: 1; Side: B; Approx. Time Counter: 8.2 - 18.2}

REP. WINDHAM informed Mr. Melton that he had made his position clear. On Page 1, Line 23, given the idea that some sort of bill will pass out of Committee, she wondered if he would be more comfortable striking the entire sentence that begins on Line 23.

Mr. Melton informed her that he felt the sentence she was referring to was an unfair characterization of the BPE and educational organizations involved. The **REPRESENTATIVE** declared she did not believe it served any purpose to put any kind of inflammatory language about the public school system in a bill. On Page 4, Line 23, he had discussed the problems with the word, "prompt." **REP. WINDHAM** wondered if the word was stricken from the bill, would the bill be more acceptable. **Mr. Melton** said, "Yes, it would." He continued. He believed that Page 4, Section 2, Sub-section B should be taken out of the bill. It deals with a very complicated area. On Page 5, Section 2, Sub-section F, he did not like the wording, "...to the extent that funds are available..." This would be like a rift process. When schools lay off employees, the school has to prove there is a legitimate financial necessity. There is a great deal of case law about whether the district had money somewhere that it could have spent to prevent the rift. He would strike the wording. **REP. WINDHAM** informed him that there had been discussion during the bill hearing of striking out Subsection 4 on Page 5, Lines 18-27 and give each school district the opportunity to come up with its own definition. It would come under Section 2, Subsection A or B. She asked for his thoughts on that change. **Mr. Melton** said he would support that idea and wanted to acknowledge that it was a well-crafted definition. The definition looked like one he might come up with if he sat down and drafted a model policy for harassment. If he had his way with the bill, he would start with Sub-section 3, on Page 5 and strike, "upon request, and say 'the Board of Public Education shall report to the Education and Local Government Committee on the number of districts that have adopted policies.'" If there was a process during the interim, the subject would be addressed and the requested information would come back to the next session in a very comprehensive manner.

REP. GALVIN-HALCRO asked Mr. Melton if he remembered that the 2003 Legislature had proposed a bill that was similar to the one being discussed. **Mr. Melton** said that he trusted that it had been done but he testified on approximately 150 bills each session. He had no doubt that it had happened but he could not provide any specific recollection on the former bill.

{Tape: 1; Side: B; Approx. Time Counter: 18.2 - 30}

{Tape: 2; Side: A}

REP. GALVIN-HALCRO requested information from Betty Kijewski. She inquired whether Ms. Kijewski recalled **HB 449** from the last session and the opposition from MSBA and the BPE. **Ms. Kijewski** informed the REPRESENTATIVE that she remembered the bill clearly as she had lobbied heavily as a proponent. She could not state for certain whether the BPE testified in opposition to the bill. She remembered the bill and felt it was similar to **SB 198** in its original form. She felt there were the same people in the room opposing this bill as the last one and they were saying the bill was inappropriate and there was a proper way of handling the situation discussed. She said she had seen no movement toward resolution in the past two years.

REP. GALVIN-HALCRO informed Steve Meloy that she did not recall him being before the Committee during the hearing for **HB 449** and she found nothing in her notes that indicated the BPE was present during the hearing. She knew MSBA was present and they had the same handout two years ago as was handed out during this year's hearing. Last session there was a lot of opposition from the education community but she could not see where anything had changed in the schools or that anything had been done differently. She asked what the Committee could have done differently so that the BPE might have responded and done something so that there wouldn't be legislation before the Committee this session. **Mr. Meloy** said that they could have handled it done differently in 2003 by taking it directly to the board. He didn't know what the board would do, but he would get the request to the board.

{Tape: 2; Side: A; Approx. Time Counter: 0 - 4.8}

REP. GALVIN-HALCRO requested information from Lance Melton. She informed him that he had repeatedly reported in the last two sessions that the problem being discussed was the responsibility of the local school boards. She said she did not argue that point, but there still were students in Montana going to school each day that were not safe. Children do not function well when they are scared and unhappy and they cannot learn. She informed him that he had not liked any solution the legislature had come up with, so she wondered what his solution would be. **Mr. Melton** declared that his solution was, and had been, to develop resources at MSBA, which has members from virtually every school district in the state. Another part of his solution would be to provide that information as resources and assisting school districts in implementing the best possible policy necessary to effectively regulate behavior to protect students in their schools. That is the bedrock of MSBA's mission. From his prospective, much of it was being done but there is no tangible

way to establish that to the satisfaction of legislators who are equally concerned with very valid issues. His solution would be to give MSBA the time between now and the next session to survey MSBA's entire membership. He wanted an amalgamation of different types of policies that do or do not protect the rights of students. He would want to identify what school districts are doing to provide a safe environment and report back to the legislature with knowledge and an informed perspective that the legislature can use to satisfy itself. He would not be able to come to the legislature and say, "No one is being bullied." He would appreciate the opportunity to come back to the legislature with a well-rounded approach and he would not wait for two years to start working on the problem. He would be able to inform the interim committee on the progress of the study.

REP. GALVIN-HALCRO asked why MSBA hadn't done something like that over the last interim. She wanted to know why the legislature had to wait another two years? Mr. Melton said that no one had asked him to bring it back to the legislature but he had been working during the past two years as he had been doing since he was hired in 1996. He had been putting together the resources, the staff, and the expertise necessary to assist school districts in doing exactly what the bill seeks to mandate.

REP. GALVIN-HALCRO informed him that she was looking for the funds to train district personnel to come from the BPE and MSBA because she worked in a district and she knew there was no money there for the training. **Mr. Melton** said MSBA's sources of revenue were derived from school districts through membership fees and fee-based programs, so it was a tough situation as MSBA's source of revenue was the same one that she recognized as being financially strapped. He acknowledged that he could redirect resources and make them available specifically as a topic to be covered at their Montana Conference of Educational Leadership. Those types of topics were covered all the time.

REP. GALVIN-HALCRO questioned why Pupil Instruction Related (PIR) days had not been used for harassment training for teachers across the state. She had not seen workshops offered when she went searching. She felt that if he had been working on the topic for nine years, she should expect to find something to be available in the training area. **Mr. Melton** informed her that he didn't know where she was looking, but the Montana Conference of Educational Leadership covered student discipline, protection of student rights, and harassment issues and they were staples of every yearly meeting.

{Tape: 2; Side: A; Approx. Time Counter: 4.8 - 15.3}

REP. GALVIN-HALCRO attested that there are programs to prevent harassment in the work places and she didn't believe that such policies inhibited employers like Mr. Melton felt they would in the schools systems. She wondered why that was true. **Mr. Melton** said much of it had to do with the fact that schools are formed under the State Constitution and that the school district governance and control is specified to be in the hands of locally elected trustees. He felt local control was under assault to such a degree as to potentially be reaching mythical status. There are mandates from the Federal Government and State Government and he believed that society had strayed afar from the original premise that the elected school boards would be in supervision and control of the schools. He failed to see that problem in the private sector businesses.

REP. MCKENNEY reported that the title of the original bill was, "An Act Requiring a School District to Adopt a Policy," and now the gray bill has "An Act Directing the Board of Public Education to Require Each..." as its title. He asked Steve Meloy if he would suggest the bill return to its original title. **Mr. Meloy** testified that both titles usurp the authority of the BPE. By the legislature dealing directly with the school boards once, it opens a precedence for the legislature to come in each session to direct school boards, thus bypassing the BPE. He felt the bill put the BPE in as a surrogate, a manikin, or a cog. Neither title would work for him. **REP. MCKENNEY** asked Mr. Meloy how the legislature should go about addressing the problem. **Mr. Meloy** related that the local decision should make the legislature cautious to direct the BPE to do anything. He felt that what the legislature should do was make their requests known through a letter or resolution to the BPE.

Eddy McClure was asked to give an opinion. She testified that the Committee was talking about public safety. BPE has constitutional rule making authority and the legislature tries to stay out of that authority. Attorneys will see it both ways. Some might see the legislature as invading BPE's authority and others would not. **Mr. Meloy** asked to respond. He believed general supervision encompasses the whole school environment. Otherwise, there would be no accreditation standards addressing what needs to be done in all areas of a school. He believed that if the legislature mandated the issue of school public safety, it was begging the question.

{Tape: 2; Side: A; Approx. Time Counter: 15.3 - 20.4}

REP. WINDHAM asked Steve Meloy how many school districts are in Montana. **Mr. Meloy** responded that there are 455. **REP. WINDHAM** replied that she is shocked that the state does not know who has a policy on harassment and who doesn't. She told him she didn't

feel the Committee would need any data from the education community. She wondered if it was possible to suspend the rules and draft a house joint resolution urging the BPE to require the school districts to have a policy and then for BPE to report back to the legislature on which schools have a policy and which do not. She wondered if that would be acceptable to BPE with a required date of May 2006. Then BPE could report to the 2007 Legislature. **Mr. Meloy** testified that resolutions are suspect because people wonder if the suggestions are followed through. **REP. WINDHAM** said she wanted to hear a commitment. **Mr. Meloy** said he still didn't like the word "require." She reminded him that she had used the word "urge." **Mr. Meloy** responded that the BPE had at its disposal, the Office of Public Instruction (OPI) that does data collection for the board. In order to ascertain how many school districts have policies and what they look like, the board would need to involve OPI and MSBA to work collectively and collaboratively with them. **Mr. Meloy** assured her that he would do everything in his power to get it done before the next session or before summer begins this year. He would prefer a resolution or letter from the Committee rather than a bill.

REP. SONJU apologized to Mr. Meloy for stating that Mr. Meloy was present when **HB 449** was heard last session. The REPRESENTATIVE had looked at the minutes for that hearing and realized Mr. Meloy was not present.

REP. SONJU asked if he understood that in MSBA's leadership conferences, they already do work on bullying policies and he wondered if Lance Melton could elaborate on what is done. **Mr. Melton** stated that every spring when there are newly elected trustees, MSBA works with 629-750 registered people for MSBA's spring workshops. They go to ten locations statewide over the course of several days and offer a full-day session. Part of the session is an introduction to school law and district policy where they talk about protection of student rights, student discipline, and staff discipline. They also have a late August workshop that is designed to coincide with PRI days. They have about 280 people registered. The workshop preps teachers and administrators for the beginning of school and brings them up to date on key issues like the ones mentioned before. MSBA has the Montana Conference of Educational Leadership in October. It is a three-day session and is attended typically by approximately 800 people who are a combination of trustees, administrators, and business officials from throughout the state.

REP. SONJU said with that much training, he didn't understand why all schools don't have a bullying policy. **Mr. Melton** believed the REPRESENTATIVE's statement was an unsupported assumption. His staff would agree with Mr. Melton.

{Tape: 2; Side: A; Approx. Time Counter: 20.4 - 30}

{Tape: 2; Side: B}

Rich Magera, Superintendent of Schools, Plains, testified that his staff tries to stop bullying everyday, before school, after school, and on the weekends. He testified that if REP. GALVIN-HALCRO had e-mailed asking for information, she had to remember sometimes e-mails do not reach their destination. He also felt that there are school officials who would hesitate to send their policy for fear it would be judged inadequate. It was his belief that MSBA had put on management conferences for schools that were phenomenal. If Mr. Magera hears that his school needs a policy, he returns home and starts to work on it. He asserted that data is very hard to collect.

BETTY KIJEWski wished to say that when Mr. Meloy states that no one had ever contacted BPE about the issue, she was sure he had been contacted.

{Tape: 2; Side: B; Approx. Time Counter: 0 - 4.1}

Committee Discussion:

REP. MCKENNEY explained the process followed by a subcommittee. He wanted the members to know that subcommittee hearings are far less formal than regular committee hearings.

REP. GALVIN-HALCRO informed them that she was still bothered that after two years there is still such a problem in the schools. When she had asked for the information from the districts, she had the staff call schools, she did not e-mail them. Her staff was told by schools that they don't have a policy and she listed a number of schools. Some schools didn't know if they had a policy. She is still bothered by Mr. Melton saying that the schools do have policies. In talking with Mr. Melton, he said that he could sit down with staff and craft more language or delete language in the bill so that MSBA, the BPE and OPI would be satisfied with the bill. She believed a problem existed and it must be addressed. It cannot be left to fester for another two years.

REP. WINDHAM agreed with REP. GALVIN-HALCRO. It is troubling when the legislature has to send a letter to make the education community do something they should be doing in the first place. There is no question that bullying is a problem. There is nothing the legislature can do that will cure the entire problem. She wanted the acknowledgment that there is a problem. She believed there are more policies in the district than the Committee is aware of but is upset that the BPE and MSBA do not know who has a policy and who doesn't. If schools have a policy

but the personnel do not know about the policy, how can they enforce it? Whether it is the BPE or MSBA, when they call each school district, they could get the information about how many schools have policies to the Committee immediately. She wished to know if the legislators during the 2003 Session pressed the issue for action.

REP. MCKENNEY believed that after the bill failed, the issue was dropped.

REP. SONJU had read the transcript of the hearing in 2003 and he believed the education community had their chance two years ago and now there had been testimony that it might take two more years to get data. He wasn't interested in data. He wanted to know that all schools have a policy. The school in his district has a policy but he wanted to know that all schools have a policy. He disagreed with Mr. Melton about a policy making the school more liable for a lawsuit. He felt a policy needed to be in place for the liability factor.

REP. WINDHAM felt that sometimes lawyers get into word-smithing and worry about putting words into a policy because if the words are not crafted properly, there is more liability than there was with no policy. She wondered if there was more worry about a school getting sued than about a child's safety.

REP. SONJU recommended that **REP. GALVIN-HALCRO** spend more time on the bill, working with the BPE, OPI, and MSBA. He wanted a bill or a resolution to go out of the Education Committee. The issue was important two years ago and policies are still not in place.
{Tape: 2; Side: B; Approx. Time Counter: 4.1 - 10}

REP. MCKENNEY agreed with the REPRESENTATIVE'S comments. He believed if there was to be urging on the part of the education community for schools to have a harassment policy, then it needed legislative direction of some sort. He was on a bill track rather than a resolution. A resolution would be a second way to handle it. A letter is very powerful coming from a legislative committee. It doesn't have the rule of law. A resolution would come from the entire legislature but a letter would come from 16 committee members. He believed the Committee needed to define what harassment was without the laundry list that was in the original bill but would be amended out.

Eddye McClure felt that the definition in the amendments sets a minimum standard for the definition but schools would be allowed to make their definition more stringent.

REP. MCKENNEY said the main purpose of the Education Subcommittee meeting was to get public comment on the changes to the bill. He was satisfied with the public comments on the changes to the bill. He wanted to keep control in the local school districts. He felt the legislature should give a bare definition of harassment and let the local districts do their job. He did want a report to come back to the interim committee.

REP. GALVIN-HALCRO wondered if the legislature would request the information or direct it and where the information would go.

REP. SONJU thought the information should be directed to OPI. He wondered if that would solve the issue.

Eddye McClure informed the Committee that they had the authority to give OPI a duty.

REP. WINDHAM asked about getting rid of the "whereas" phrases. She didn't want to offend anyone in the education community. She believed the offices needed a nudge. She wanted to know if the information went to OPI, if that would offend the BPE.

Eddye McClure informed her that OPI is technically the staff for BPE.

REP. MCKENNEY requested **REP. GALVIN-HALCRO** take the lead in the drafting revision with Ms. McClure and work with Mr. Melton. Mr. Melton had volunteered to work with the Committee. Ms. McClure informed them that OPI had offered to work on the issue also.

REP. WINDHAM doesn't want it to become a time issue.

REP. GALVIN-HALCRO reported that executive action would be taken on the bill March 30, 2005.

Eddye McClure said that she would talk to Lance Melton.

REP. SONJU informed them that he would rather request the information from the BPE but he could live with it coming from OPI.

REP. WINDHAM recommended the request be sent to the BPE.

ADJOURNMENT

Adjournment: 5:40 P.M.

REP. JOE MCKENNEY, Chairman

NINA ROATCH-BARFUSS, Secretary

JM/nb

Additional Exhibits:

EXHIBIT ([edh63aad0.PDF](#))