

**Education and Local Government Interim Committee
2005-2006 Interim**

Summary of Statutory Duties and Proposed Work Plan

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June 2005

This document is an introduction to the Education and Local Government Interim Committee (ELG) and a proposed work plan which, if adopted by the committee, will help to guide its work for the next 14 months.

Included in this paper are:

1. ELG's statutory duties;
2. Required reports;
3. ELG's interim study assignment;
4. Additional topics within ELG's subject area jurisdiction;
5. Subcommittee options;
6. Administrative rule review options; and
7. ELG's budget and proposed meeting schedule.

I. ELG'S STATUTORY DUTIES

Duties common to all committees

A number of statutory duties are common to all interim committees. These are found in Section 5-5-215, MCA. Each interim committee shall:

1. review administrative rules within its jurisdiction;
2. conduct interim studies as assigned;
3. monitor the operation of assigned executive branch agencies with specific attention to the following:
 - a. identification of issues likely to require future legislative attention;
 - b. opportunities to improve existing law through the analysis of problems experienced with the application of the law by an agency; and
 - c. experiences of the state's citizens with the operation of an agency that may be amenable to improvement through legislative action;
4. review proposed legislation of assigned agencies or entities as provided in the joint legislative rules;
5. accumulate, compile, analyze, and furnish information bearing upon its assignment and relevant to existing or prospective legislation as it determines, on its own initiative, to be pertinent to the adequate completion of its work; and
6. prepare bills and resolutions that, in its opinion, the welfare of the state may

require for presentation to the next regular session of the legislature.

Duties specific to ELG

Section 5-5-224, MCA, provides ELG's specific statutory duties, which fall into three primary categories: local government relations, general state administration of education, and postsecondary education. The section requires the committee to:

1. act as a liaison with local governments;
2. execute administrative rule review, draft legislation review, program evaluation, and monitoring responsibilities for the following agencies and the entities attached to the agencies for administrative purposes:
 - a. State Board of Education
 - b. Board of Public Education¹
 - c. Board of Regents of Higher Education;² and
 - d. Office of Public Instruction;
3. provide information to the Board of Regents in the following areas:
 - a. annual budget allocations;
 - b. annual goal statement development;
 - c. long-range planning;
 - d. outcome assessment programs; and
 - e. any other area that the committee considers to have significant educational or fiscal policy impact;
4. periodically review the success or failure of the university system in meeting its annual goals and long-range plans;
5. periodically review the results of outcome assessment programs;
6. develop mechanisms to ensure strict accountability of the revenue and expenditures of the university system;
7. study and report to the legislature on the advisability of adjustments to the mechanisms used to determine funding for the university system, including criteria for determining appropriate levels of funding;

¹ In a 1992 decision, Judge Jeffrey Sherlock of the First Judicial District ruled that the Board of Public Education is vested with constitutional rulemaking authority that is independent of any power delegated to the Board by the Legislature. Any rules adopted by the Board of Public Education are not subject to legislative review. However, in the 2003-2004 interim, the Board requested that the committee review its rules. That may continue to be the case. In addition, SB 152, enacted by the 2005 Legislature, requires the Board of Public Education to submit proposed accreditation standards to the committee. That requirement is discussed in Part II of this paper.

² The Board of Regents is exempt from the Montana Administrative Procedure Act (2-4-102(2), MCA), so any rules adopted by the Board of Regents are not subject to legislative review.

8. act as a liaison between both the legislative and executive branches and the Board of Regents;
9. encourage cooperation between the legislative and executive branches and the Board of Regents;
10. promote and strengthen local government through recognition of the principle that strong communities, with effective, democratic governmental institutions, are one of the best assurances of a strong Montana;
11. bring together representatives of state and local government for consideration of common problems;
12. provide a forum for discussing state oversight of local functions, realistic local autonomy, and intergovernmental cooperation;
13. identify and promote the most desirable allocation of state and local government functions, responsibilities, and revenue;
14. promote concise, consistent, and uniform regulation for local government;
15. coordinate and simplify laws, rules, and administrative practices in order to achieve more orderly and less competitive fiscal and administrative relationships between and among state and local governments;
16. review state mandates to local governments that are subject to 1-2-112 and 1-2-114 through 1-2-116;³
17. make recommendations to the legislature, executive branch agencies, and local governing bodies concerning:
 - a. changes in statutes, rules, ordinances, and resolutions that will provide concise, consistent, and uniform guidance and regulations for local government;
 - b. changes in tax laws that will achieve more orderly and less competitive fiscal relationships between levels of government;
 - c. methods of coordinating and simplifying competitive practices to achieve more orderly administrative relationships among levels of government; and
 - d. training programs and technical assistance for local government officers and employees that will promote effectiveness and efficiency in local government; and

³ These sections of the MCA govern the legislative imposition of unfunded mandates on local governments.

18. conduct interim studies as assigned.

II. REQUIRED REPORTS

House Bill No. 2

The version of HB 2 that the 2005 Legislature enacted contains one requirements for a report to ELG and one--involving the university system--to "the appropriate interim committee", both of which were stricken by the Governor before he signed the measure. If legal action results in those provisions being reinstated, the following would apply:

The Office of Public Instruction shall include as a part of its work plan priorities for the next biennium the prevention of dropouts and the reduction of dropout rates in Montana's public schools and report on these efforts to the Education and Local Government Interim Committee before September 1, 2006.

The Montana University System shall prepare a plan for implementation of Indian Education for All Montanans within the educational units of the university system and present this plan to the appropriate interim committee by July 31, 2006.

Senate Bill No. 152

SB 152 (Ch. 208, L. 2005) amended section 20-7-101, MCA, to read:

20-7-101. Standards of accreditation. (1) Standards of accreditation for all schools shall must be adopted by the board of public education upon the recommendations of the superintendent of public instruction.

(2) Prior to adoption or amendment of any accreditation standard, the board shall submit each proposal to the education and local government interim committee for review. The interim committee shall request a fiscal analysis to be prepared by the legislative fiscal division. The legislative fiscal division shall provide its analysis to the interim committee and to the office of budget and program planning to be used in the preparation of the executive budget.

(3) If the fiscal analysis of the proposal is found by the legislative fiscal division to have a substantial fiscal impact, the board may not implement the standard until July 1 following the next regular legislative session and shall request that the same legislature fund implementation of the proposed standard. A substantial fiscal impact is an amount that cannot be readily absorbed in the budget of an existing school district program.

~~(2)~~(4) Standards for the retention of school records must be as provided in 20-1-212.

III. INTERIM STUDY ASSIGNMENT

In the poll to gauge legislator interest in interim study resolutions conducted shortly after the 2005 Legislature adjourned, SJR 11 ranked 18th out of 22 total studies. On May 16, 2005, the Legislative Council assigned SJR 11 to ELG.

The resolution requests an interim study of the subdivision review process and is intended as a follow-up to the study requested by HJR 37, passed during the 2003 Legislature and conducted by ELG's Local Government Subcommittee last interim. At the urging of the subcommittee, a working group formed to develop legislation to address process-oriented problems with local government review of subdivision applications that members of the group had identified. The working group met independently numerous times and reported its progress to the subcommittee. The HJR 37 study resulted in two pieces of legislation, SB 116 (Laible) and SB 290 (Mangan), both of which were enacted by the 2005 Legislature.

As evidenced by the testimony during the hearing for SJR 11, its sponsor and its proponents envision continuing the working group process to address additional substantive problems that remain with the Subdivision and Platting Act.

ELG has the prerogative to determine how much of its time and how much staff time this interim should be devoted to the study, taking into account its statutory duties and other issues that fall within the committee's subject area jurisdiction.

IV. ADDITIONAL TOPICS WITHIN ELG'S SUBJECT AREA JURISDICTION

Local Government

The Committee is charged with a number of broad statutory duties with respect to local governments. Rather than focus time and energy on each provision in section 5-5-224, MCA, it may be advisable to simply focus on the overarching requirement that the committee "act as a liaison with local governments"--following up on committee member-initiated suggestions for research and legislative attention, as well as soliciting input from city and county representatives.

To that end, in May, staff met with members of the League of Cities and Towns (primarily mayors and city managers) to discuss possible areas of concern that might be appropriately addressed by the committee. All attendees agreed on one policy area that they believe needs some study and attention: transportation.

Cities and Transportation

Specifics that were discussed include:

- ▶ allocation of fuel tax revenue at the local level;
- ▶ management of the right-of-way and what happens when utilities within a right-of-way must be relocated;
- ▶ local control of street design and project management when the street is part of the state highway system;
- ▶ Community Transportation Enhancement Program (CTEP) funds and how they

- are allocated;
- ▶ traffic patterns in the state and whether allocation of funds reflects those patterns;
 - ▶ affects of the 2005 impact fee legislation on local transportation systems;
 - ▶ 2005 changes to local option fuel tax laws; and
 - ▶ implications of the delayed federal transportation funding bill on local governments.

Again, the committee is entitled to devote as much or as little time to local government transportation or any other local government-related issue that arises as it considers appropriate.

Education

School Funding

The Quality Schools Interim Committee has specific responsibilities for the school funding study. ELG staff and the staff of the Quality Schools Interim Committee will coordinate so work is not duplicated and so ELG is kept apprised of the other committee's activities. Once the Quality Schools Interim Committee is dissolved, there will likely be loose ends or continuing projects that would naturally be transferred to ELG.

Other Education-related Topics

- ▶ Although the reports are not currently "required" through HB 2, the committee may want to consider requesting reports from the Office of Public Instruction (OPI) on its plans to implement Indian Education for All.
- ▶ OPI's work on dropout rates (the other stricken HB 2 requirement) may be of interest to the Committee.⁴
- ▶ The Committee may request a report from the Board of Public Education on the P-20 Dual Enrollment Task Force.
- ▶ Postsecondary Education has traditionally been handled by a subcommittee of ELG, the Postsecondary Education Policy and Budget Subcommittee (PEPB), which is made up of ELG members, a representative of the Governor's Office, the Commissioner of Higher Education, and members of the Board of Regents. PEPB meets independently and members and staff make regular reports to the full committee.

⁴ The Quality Schools Interim Committee is receiving reports on both of those issues as well.

V. SUBCOMMITTEES

Last interim, ELG divided into three subcommittees: PEPB, Local Government, and Education.

PEPB

Alan Peura, a fiscal analyst with the Legislative Fiscal Division, provides staff support to PEPB and has developed the following plan for the subcommittee's study issues for the biennium.

Postsecondary Education Policy and Budget Subcommittee
Potential Study Issues 2007 Biennium

Prepared by
Alan Peura, Associate Fiscal Analyst, Legislative Fiscal Division

- 1) Policy Goals/Accountability Measures adopted by PEPB/BOR last two cycles
 - Develop benchmarks and performance guidelines to measure progress toward these measures
 - Investigate converting these to budget formula drivers (for new proposals in 2009 biennium)

- 2) Review current state funding formulas used to establish Montana University System budget
 - State share of the cost of education -- drives present law adjustment funding
 - Marginal cost per student formula -- drives funding for enrollment increases
 - Cost of education at community colleges and university units

A. Look at other state funding formula models used to fund higher education.

- 3) Monitor progress and funding results of Shared Leadership Initiatives (including matching funds)

- 4) Monitor implementation of new Governor's Postsecondary Education Scholarship Program

- 5) Participate in Board of Regent review and changes to allocation model used by Regents to disburse HB 2 funding to the university educational units

- 6) Monitor 2009 biennium budget request and any proposed legislation

Local Government and Education Subcommittees -- staff proposal

Since the Quality Schools Interim Committee is responsible for the education funding study and will be actively operating until December, ELG may wish to consider approaching its work related to education--aside from postsecondary education--and local government as a full body, rather than dividing into two additional subcommittees, at least until after the special session and after the Quality Schools Interim Committee has dissolved. The committee can reevaluate whether subcommittees may be desirable at any point in the interim.

Committee members' subcommittee preferences will be discussed at ELG's organizational meeting on July 15.

VI. ADMINISTRATIVE RULE REVIEW OPTIONS

As is noted in the discussion of ELG's specific statutory duties and related footnotes (see page 2), the committee has full or limited administrative rule review responsibilities for the State Board of Education, the Board of Public Education, the Board of Regents, and the Office of Public Instruction. The committee determines the extent to which it will exercise that authority. The options range from detailed committee examination of all proposed rules to a summary of proposed rules by ELG's legal staff to ELG's legal staff providing members notice of any particularly significant or unusual proposed rules.

Title 2, chapter 4, part 4 of the Montana Code Annotated provides for legislative review of administrative rules. In summary, interim committees may:

- ▶ request and obtain an agency's rulemaking records;
- ▶ submit to an agency written recommendations for the adoption, amendment, or rejection of a proposed rule;
- ▶ require that a rulemaking hearing be held;
- ▶ poll the legislature to determine whether a proposed rule is consistent with legislative intent; and
- ▶ request an economic impact statement for a proposed rule.

The Committee's approach to administrative rule review will be discussed at the July 15 organizational meeting.

VII. COMMITTEE BUDGET AND PROPOSED MEETING SCHEDULE

ELG has slightly more than \$35,000 in its budget for the 2005-2006 interim. This should easily accommodate six to seven meetings of the full committee (one or two of which may be 2-day meetings) and subcommittees. The following is a proposed meeting schedule.

1. Friday, July 15, 2005
2. Friday, September 23, 2005

3. Thursday and Friday, December 1-2, 2005
4. Thursday, March 2, 2006
5. Wednesday, May 31, 2006
6. Thursday and Friday, August 24-25, 2006