



Montana Legislative Services Division
Office of Research and Policy Analysis
David D. Bohyer, Director

May 15, 2015

TO: Members of the Legislative Council
FROM: Dave Bohyer, Research Director
RE: Statutory studies and Legislator Poll on Interim Study Resolutions

Introduction

- The 64th Legislature directed by bill that nine studies be conducted during the interim and requested that an additional 15 studies be assigned by the Legislative Council to an appropriate "interim committee". The governor vetoed two of the bills, HB 496 and SB 354, and line-item vetoed appropriations for three of the remaining seven studies. One of the study bills, SB 418, never included an appropriation.
- Each of the studies directed by bill, now law, will be conducted. Consequently, budget, legislator, and staff resources are dedicated first to the studies by bill and secondarily to the studies requested by resolution.
- Table 1 on page 5 shows the seven studies required by law to be conducted. Four of the bills establish totally new "committees", by various names, while the other three studies are assigned to existing interim committees. Each of the seven studies is broad in scope and will require a substantial commitment of legislators' and members' time and financial and staff resources.
- Table 2 on page 6 illustrates the final results of the Interim Study Poll for the 64th Legislature. Table 2 also includes the staff's recommendations for assignment of the studies to the various interim and statutory committees.

The Interim Study Poll of Legislators

- There were 15 separate joint resolutions adopted during the 64th Session that *request* a legislative interim study to be conducted. (This compares to 17 study requests in 2013, 16 in 2011, 17 in 2009, 21 in 2007, and 22 in 2005.)

- The poll ballots were mailed to legislators on Thursday, April 25, 2013. The return deadline was Friday, May 8. Ballots received by 8 a.m., Thursday, May 14 were included in the poll results. A few "straggler" ballots were received after May 14 and were not included in the poll results.

The Poll Results

- 104 ballots of a possible 150 were returned for a response rate of 69% and 103 of the 104 were used to determine the rankings.
- The poll used the Borda method of selection, which awarded "points" based on the rankings in individual ballots. Each top-ranked study -- rated #1 on an individual ballot -- received 15 points. Each second-ranked study -- rated #2 on a ballot -- received 14 points, and so on through the study ranked 15th, which received 1 point. A study that was not ranked on a ballot received zero points.
- The mean average number of points received by the 15 studies is 652. Eight studies received more than 652 points; seven studies received fewer.
- The median number of points received among the 15 studies is 665 points. Seven studies received more than 665 points and seven studies received fewer than 665 points.

Staff Recommendations

- The final column on the right in Table 2 indicates the staff's recommended disposition for each of the studies requested by resolution. Staff recommends that 12 of the 15 studies (80%) be assigned to various legislative committees and that three studies not be assigned to an interim committee.
- Primary considerations underpinning the recommendations are: (1) the number, nature, and scope of studies, committees, commissions, and task forces *required* by bills passed this session; (2) each study's rank in the poll; (3) available committee resources, including committee time and budget; and (4) available staff resources.

- The staff's "Do Not Assign" recommendations result from the totality of circumstances, including the relatively low priority given by legislators to the studies. The "Do Not Assign" recommendations are not a commentary on the inherent merits of any of the studies requested, but are instead an attempt to accommodate the Legislature's highest priorities efficiently and effectively with existing resources.
- ***The staff's recommendations are advisory only.*** The Legislative Council has the statutory authority to assign--or not assign--the studies in the ways the Council members believe is most appropriate. (See 5-5-217, MCA.)

"Do Not Study" Recommendations

- The staff makes a "Do Not Study" recommendation primarily on the basis of resource limitations, but also on the basis of the studies' relative rankings in the poll. The staff recommends "Do Not Study" for the following studies:
 - ✓ SJR 22: Study state guardianship programs for elderly. Ranked # 8
 - ✓ HJR 29: Study membership-based health services to determine insurance, cost impacts. Ranked # 10
 - ✓ HJR 14: Study eyewitness identification policies. Ranked # 13
- ***The staff's recommendations are advisory only.*** The Legislative Council has the statutory authority to assign or not assign each study. (See 5-5-217, MCA.) The staff developed the recommendations taking into account resource availability and deployment, including:
 - ✓ recognized limits on legislators' time, willingness, and ability to participate fully in the studies as proposed in the legislation and if undertaken as envisioned in the Preliminary Study Outline;
 - ✓ limits on staff time and on the deployment of staff, individually and collectively, to the most appropriate subject areas and committees;
 - ✓ limits on appropriations and budgets.

Interim Committee Overviews

- Very brief overviews of each of the "interim committees" and the permanent statutory interim committees, like the EQC or the State-Tribal Relations Committee, are provided following this narrative as an integral part of this memorandum. The overviews will help to illustrate the recommended and ongoing assignments for each committee.

Preliminary Study Outlines

- LSD research staff have prepared a preliminary study outline (PSO) for each of the seven studies requested by bill and for each of the 15 studies requested by resolution. (The PSOs are included at Appendix A for anyone interested in understanding the staff's initial approach to each of the studies.)
- The PSOs were developed by staff prior to compilation of the interim study poll ballots, thus eliminating the potential influence of any study's rank within the poll and maximizing objectivity about the study requested.
- The PSO for each study will likely, at the appropriate time, provide a basis for the study plan and work schedule that staff will prepare for the committee assigned a study.
- The concept of "preliminary" is literal as used in the context of the outlines. The staff and the committee to which a study is assigned will work together to design and execute a formal study plan and work schedule, including committee meetings, for each study assigned.

Legislative Council meeting and study assignment

- The Legislative Council is scheduled to meet on Monday, May 18, at 10 a.m. in Room 102 of the State Capitol to consider the results of the interim study poll and to assign interim study requests as the Council members determine is most beneficial.

Please contact me, Susan Fox, or any of the research analysts in either the Research Office or in the Environmental Policy Office (LEPO) if you have comments or questions regarding the poll or interim studies and activities generally.

Respectfully submitted.

Table 1
Study Bills Passed and Approved -- 64th Legislature: 2015

| Bill No. | Short Title/Subject of Resolution | Preliminary Committee Assignment |
|----------|---|--|
| HB 422 | Improve outcomes for youth in the children's mental health system | CFHHS Interim Committee by statute |
| HB 430 | Interim judicial redistricting commission | NEW -- Judicial Redistricting Commission |
| HB 627 | Task force to study the office of public defender | NEW -- Office of Public Defender Task Force |
| SB 128 | Establish decennial school funding study | NEW -- School Funding Interim Commission |
| SB 224 | Commission to study criminal justice system | NEW -- Commission on Sentencing |
| SB 390 | Study fees charged relating to P&O Boards | Economic Affairs Interim Committee by statute |
| SB 418 | Study mental health care program implementation | CFHHS Interim Committee by statute |

Table 2
RESULTS OF THE 2015 INTERIM STUDY POLL
64th LEGISLATURE

Listed by Ranking

| Joint Res. # | May 14 ¹ Rank | Total Points | Short Title/Subject of Resolution | Staff Recommendation for Interim Committee Assignment |
|--------------|--------------------------|--------------|---|---|
| SJR 21 | 1 | 876 | Study local fire and emergency services | Education & Local Government |
| SJR 12 | 2 | 867 | Study net metering laws | Energy and Telecom |
| HJR 07 | 3 | 742 | Study next generation 9-1-1 | Energy and Telecom |
| SJR 20 | 4 | 741 | Study historic road right-of-way acquisition | Education & Local Government |
| HJR 27 | 5 | 730 | Study statutory appropriations | Legislative Finance Committee |
| HJR 13 | 6 | 729 | Study federal roads and parcels and access | EQC |
| SJR 24 | 7 | 713 | Study sexual assault statutes, policies, etc. | Law and Justice |
| HJR 21 | 9 | 636 | Study ownership of personal information | State Admin & Vets' Affairs |
| HJR 16 | 11 | 524 | Study on ride-sharing in Montana | Energy and Telecom |
| HJR 26 | 12 | 507 | Study youth concussion protection laws | Education & Local Government |
| HJR 08 | 14 | 477 | Study Law Enforcement Academy funding | Legislative Finance Committee |
| SJR 02 | 15 | 474 | Study state assumption of federal dredge/fill permits | Water Policy |
| SJR 22 | 8 | 665 | Study state guardianship programs for elderly | Do not assign |
| HJR 29 | 10 | 602 | Study membership-based health services to determine insurance, cost impacts | Do not assign |
| HJR 14 | 13 | 503 | Study eyewitness identification policies | Do not assign |

Mean Average points = 652 (SJR 22) Median points = 665 (SJR 22) BALLOTS = 104 returned as of 8 a.m., May 14, 2015 (69%).

¹ These rankings were compiled from the 104 "ballots" received by LSD as of 8 a.m., Thursday, May 14, 2015.

**Interim Committee Overviews:
Including Staff Recommendations for the Assignment of
Interim Studies Requested by Resolution
2015-16 Interim**

| Children, Families, Health and Human Services Interim Committee | |
|---|---|
| Statutory duties: 5-5-215 and 5-5-225, MCA | |
| HB 422 | Improve outcomes for youth in the children's mental health system |
| SB 418 | Study mental health care program implementation |
| <p>Other considerations: The committee's workload is likely to be affected by three key topics that are not covered in study bills or resolutions, as follows:</p> <ul style="list-style-type: none"> • Medicaid expansion. Senate Bill 405 expanded the Medicaid program to nondisabled, childless adults at or below 138% of the federal poverty level but placed certain requirements on how the expansion is to be carried out. Those requirements will require the Department of Public Health and Human Services to submit a waiver application to the federal government. Under existing state law, the Children and Families Committee must -- at a public hearing -- review and comment on the waiver application before the final application is submitted to the federal government and must review the final, approved waiver, as well. In addition, the committee probably will want to receive ongoing updates on the work of the Medicaid oversight committee established in SB 405 as well as the federal government's response and revisions to the waiver application, the development of administrative rules to implement SB 405, the number of people who sign up for the expanded program, and the costs of providing Medicaid services to additional people. It's likely that Medicaid expansion will be monitored at each committee meeting. • Closure of the Montana Developmental Center. Senate Bill 411 requires DPHHS to plan for the closure of MDC, which serves seriously developmentally disabled individuals. The bill created a transition planning committee to help plan for the closure and also requires that most residents be moved out of the facility by the end of 2016. The Children and Families Committee probably will want to follow the progress of the transition planning committee as well as review DPHHS efforts to move people out of MDC and into community services and the response by community providers to serving MDC clients. It also may want to closely review any legislation proposed by the transition planning committee. • Medical marijuana. The 2011 Legislature passed Senate Bill 423 to significantly revise Montana's medical marijuana laws. The legislation also required the Children and Families Committee to monitor implementation of the new law and to suggest revisions to future legislatures. Many key provisions of the law have been on hold since a court challenge was filed in May 2011. However, the Montana Supreme Court has just taken up the final appeals related to that challenge and may rule on the contested provisions within the next year. Depending on the court's ruling, the committee may spend more time on medical marijuana issues this interim than it has in the past. | |

| Economic Affairs Interim Committee | |
|---|--|
| Statutory duties 5-5-215 and 5-5-223, MCA | |
| SB 390 | Study of fees charged relating to boards |
| <p>Other considerations:</p> <ul style="list-style-type: none"> • SB 28 (2013) adopted the Interstate Insurances Product Regulation Compact. As part of the Compact, the compact commission is required to make an annual report to the governor and legislature of the compacting states, which must include a report of the required independent financial audit. • HB 41 (2013) formally added the Division of Banking and Financial Institutions provided for in section 32-1-211, MCA, to the monitoring functions of the committee. • With the SB 390 study of fees charged relating to boards, the EAIC's statutorily assigned duties, and possible staff deployment on other statutorily required studies, the Committee and staff have ample work. | |

| Education and Local Government Interim Committee | |
|---|--|
| Statutory duties: 5-5-215 and 5-5-224, MCA | |
| SJR 21 | Study local fire and emergency services |
| SJR 20 | Study historic road right-of-way acquisition |
| HJR 26 | Study youth concussion protection laws |
| <p>Other considerations: The ELG Committee's work will likely focus this interim more on "local government" matters than on "education" matters because SB 128 establishes the School Funding Interim Commission, which will draw on various education resources in state and local government, including school districts, and on the resources of several education-oriented associations. With SB 128 drawing so heavily on those resources, it is inadvisable to have the ELG duplicate efforts or seek input or assistance from the same resources.</p> | |

| Energy and Telecommunications Interim Committee | |
|---|---|
| Statutory duties: 5-5-215 and 5-5-230, MCA | |
| HB 2 | Joint EQC/ETIC subcommittee to study CO2 emission standards |
| SJR 12 | Study net metering laws |
| HJR 7 | Study next generation 9-1-1 |
| HJR 16 | Study on ride-sharing in Montana |
| <p>Other considerations: The ETIC typically also considers a variety of topics that include: the Bakken development/slowdown; coal mining, shipping, and energy production; transportation of energy resources, e.g. rail transport and pipelines; the siting of electricity and natural gas transmission and distribution corridors and infrastructure; broadband communications; and similar matters. The ETIC rarely has excess time to consider the many issues in its domain.</p> | |

| Environmental Quality Council | |
|--|---|
| Statutory duties: 5-5-202, 5-5-215, and 5-16-101, et seq., MCA | |
| HJR 13 | Study federal roads and parcels and access |
| HB 2 | Joint EQC/ETIC subcommittee to study CO2 emission standards |
| <p>Other considerations: With 15 members, the EQC is among the legislative branch's busiest committees during interims. If the topic deals with fish, wildlife, bison, pollution, water, energy, agriculture, outdoor recreation or parks, air or water quality, state or federal lands, the EPA, pollution control, land reclamation, dams and hydropower, wind and solar energy, mining, eminent domain, facility siting, or what have you, the EQC can be and often is involved. The Council has statutory authority to examine issues that fall under the "environment" umbrella and typically exercises that authority with gusto.</p> | |

| Law and Justice Interim Committee | |
|---|---|
| Statutory duties: 5-5-215 and 5-5-225, MCA | |
| SJR 24 | Study sexual assault statutes, policies, etc. |
| <p>Other considerations: The LJIC is another interim committee that seems to always have a full plate of issues. In addition to the SJR 24 study, which may require the members to read the recently published <i>Missoula</i> book, the LJIC has historically examined jails, the state prison, private prisons, the Montana Women's Prison, various drug-related crises ranging from medical marijuana to methamphetamine, DUI, law enforcement, the MHP and MLEA, the Board of Pardons and Parole, Office of the Public Defender, and municipal and district courts and the Supreme Court and all of their elected officers, among others. Moreover, the HB 430 Judicial Redistricting Commission, SB 224 commission to study the criminal justice system, and the HB 627 task force to study the office of public defender will each draw significantly upon staff resources usually deployed to matters within the LJIC's jurisdiction.</p> | |

| Revenue and Transportation Interim Committee | |
|---|-------------------------------|
| Statutory duties: 5-5-215 and 5-5-227, MCA | |
| HJR 2 | Revenue Estimating Resolution |
| <p>Other considerations: For the first interim in recent memory, the legislature did not assign a study to the RTIC or request a study that falls directly within the Committee's areas of interest and concern. Nevertheless, the Committee's members traditionally have a laundry list of items to consider, including: tax credits, deductions, exclusions, exemptions, abatements, and incentives; property taxation; reappraisal; centrally assessed property; waters-edge tax treatment; tax equity and sufficiency; state and local government budgets; taxpayers; tax- and commerce-focused associations; motor vehicle registration; roads, highways, and transportation infrastructure; airports and ports of entry; general and commercial aviation; motor carriers; transportation contractors; motor fuel wholesalers, jobbers, and retailers; mineral production and development; tax climate; capital gains taxation; tax administration; local and state tax appeals; tax administration, and taxpayers. The RTIC is never in a deficit when it comes to tackling far reaching and weighty issues.</p> | |

| State Administration and Veterans' Affairs Interim Committee | |
|---|---|
| Statutory duties: 5-5-215 and 5-5-228, MCA | |
| 5-5-228, MCA | Study public retirement systems; establishing retirement system principles and guidelines |
| <p>Other considerations: Several recent court cases in various states' supreme courts have highlighted issues relevant to Montana's public employee and teachers' retirement systems. In fact, the Montana Supreme Court will likely issue a decision during the interim on the legality of some of the provisions of HB 377 (2013--TRS Funding) and HB 454 (2013--PERS Funding). Other matters typically of concern to the SAVA include: elections; campaign finance laws and ongoing reform efforts; campaign practices, e.g., super PACs and "dark money"; voter registration; ballot issues; public official and employee ethics; whistle blower protection; state contracting and procurement practices; state management systems; state Information Technology systems; state facilities, both state-owned and leased; the capital complex, including the Capitol building; military affairs; National Guard matters, including training, local armories, personnel readiness, active duty calls, returning veterans, interactions with the VA and other federal agencies, and MANG; veterans' health care, both physical and mental; Malmstrom AFB; and disaster and emergency response and readiness. For each question or issue that is resolved, one or two more seem to appear.</p> | |

| State-Tribal Relations Committee | |
|---|--|
| Statutory duties: 5-5-202, 5-5-215, and 5-5-229, MCA | |
| <p>Other considerations: The STRC is unique among legislative branch interim committees in that its primary purpose is to function in a liaison capacity between the state's Indian Tribes and the legislature. In performing that function, the STRC members have historically held meetings at at least one of the Indian reservations and, more recently, at two reservations during the interim. The STRC is likely to continue monitoring the Indian Languages Program and to interact with tribal representatives on issues about economic development, education, health care, prevention of alcohol and drug abuse, law enforcement, fish and wildlife, water and water projects, wild bison, heritage properties and antiquities, state-tribal agreements, and natural resources in general. Maintaining a quorum for meetings increasingly seems to be a challenge that only the STRC members can address.</p> | |

| Water Policy Committee | |
|--|---|
| Statutory duties: 5-5-215 and 5-5-231, MCA | |
| SJR 2 | Study state assumption of federal dredge/fill permits |
| <p>Other considerations: Almost certainly, the WPIC will continue to monitor the progress of the Confederated Salish and Kootenai Tribes Water Compact as it winds its way through Congress, the CSKT government, and the northwestern part of the state. Even so, there is no shortage of interest in matters of water quality or quantity, interstate and international agreements and disagreements, surface and subsurface water, aquifers, water wells and drilling, waste water, water treatment, and the list goes on.</p> | |

| Legislative Finance Committee | |
|---|---------------------------------------|
| Statutory duties: 5-12-205, MCA | |
| HJR 27 | Study statutory appropriations |
| HJR 8 | Study Law Enforcement Academy funding |
| <p>Other considerations: If the LFC takes on the two studies requested by resolution, they will do so in conjunction with the broad oversight typically brought to bear by the Committee. Rarely is there a public policy issue that does not also have a fiscal component, and the LFC is vigilant in ensuring that appropriations and budgets are adhered to and dogged in uncovering fiscal problems at the agency or even program level.</p> | |

