

# **PROPOSED WORK PLAN FOR 1999-2000 INTERIM Education and Local Government Committee**

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## **INTRODUCTION**

In order for the Education and Local Government Committee to perform its duties and fulfill its responsibilities during the 1999-2000 interim in an effective and efficient manner, it should adopt a work plan. The work plan will help both the Committee and its staff to "stay on track" during the interim while, at the same time, allowing for unforeseen events that may require some attention and action on the Committee's part.

In order to assist the Committee, staff has prepared a work plan proposal for the Committee's consideration. This work plan encompasses the Committee's statutory responsibilities, interim study activities, and other study activities by the Committee.

This report is a discussion of the various components of the proposed work plan followed by a copy of the proposed work plan itself.

## **STATUTORY RESPONSIBILITIES**

### **Senate Bill No. 11 Program Review and Monitoring**

Senate Bill No. 11 significantly revised the interim committee structure. In the past, interim committees were created to conduct studies assigned by resolution or by bill. It was not unusual to have ten or more interim study committees. Some of the problems with this process was that legislators and staff were involved with interim study committees that had no relation to session standing committee assignments, resulting in a lack of interest, a steep learning curve, the inability to specialize in particular areas, and the inability to follow up on interim committee issues and bills and the activities of state agencies. Legislative Services Division staff developed a proposal to consolidate interim statutory and interim study committees into six permanent interim committees. The proposal was designed to give each committee specific jurisdictional coverage similar to standing committees as well as agency rule review and program review and monitoring duties. The proposal was approved and introduced by the request of the Legislative Council.

Senate Bill No. 11 created six interim committees, each responsible for the administrative rule review and program review and monitoring for specific executive branch agencies. The Education and Local Government Committee is responsible for the Board of Public Education, the Board of Regents of Higher Education, and the Office of Public Instruction. In addition, the duties of the old Postsecondary Education Policy and Budget Committee were also assigned to Education and Local Government. (A copy of the duties of interim committees and the Education and Local Government Committee are attached to this report.)

Agency Review: Each committee is directed to monitor the operation of assigned executive branch agencies with specific attention to the:

1. identification of issues likely to require future legislative attention;
2. opportunities to improve existing law through the analysis of problems experienced with the application of the law by an agency; and
3. experiences of the state's citizens with the operation of an agency that may be amenable to improvement through legislative action.

Administrative Rule Review: The Legislature delegates the power to enact law (in the form of administrative rules) to the Executive Branch. The administrative rules must be authorized by the Legislature in statute. Once adopted, these administrative rules have the force of law. The purpose of administrative rules is to implement the statutes that the Legislature enacts. Because the Legislature is a part-time body that generally lacks the expertise in the many varied purposes of state government, it often does not have the time, knowledge, and resources necessary to enact the detailed provisions of legislation; in other words, the nitty-gritty details necessary to make a program or a law work as intended. Under Senate Bill No. 11, each interim committee is responsible for the review of administrative rules within its jurisdiction. An interim committee's powers relating to administrative rules include:

- < reviewing the incidence and conduct of administrative proceedings under the Montana Administrative Procedure Act (MAPA);
- < requiring an agency proposing a rule to hold a hearing on a rule;
- < submitting oral and written testimony at an agency's rulemaking hearing;
- < requiring an agency to prepare an economic impact statement or a family impact note regarding a proposed rule;
- < petitioning an agency for the adoption, amendment, or repeal of a rule;
- < making a written recommendation to an agency for the adoption, amendment, or rejection of a rule;
- < polling the Legislature to determine whether a proposed rule is consistent with the legislative intent;
- < petitioning an agency for a declaratory ruling on the applicability of a rule;
- < seeking judicial review of the sufficiency of the reasons for the adoption of an emergency rule; and

- < instituting, intervening, or otherwise participating in proceedings involving MAPA in state and federal courts and administrative agencies.

At its first meeting on June 14, the Education and Local Government Committee directed the Committee's attorney to bring to the Committee's attention only those administrative rules that the attorney believes to be controversial or problematic.

At the October 1 meeting, the Committee will be asked to decide the level of review and monitoring that it wishes to exercise with the agencies under its jurisdiction.

### **Postsecondary Education Duties and Responsibilities**

When Senate Bill No. 11 was enacted, it eliminated some other statutory interim committees and folded their duties into the newly created committees. One of the committees that was eliminated was the Postsecondary Education Policy and Budget Committee. Its duties were assigned to the Education and Local Government Committee.

At the June 14 meeting, the Committee established the Postsecondary Education Policy and Budget Subcommittee to handle postsecondary education issues.

### **INTERIM STUDY ACTIVITIES**

The Education and Local Government Committee was assigned two interim studies:

1. *House Joint Resolution No. 29*: a review of state laws pertaining to local governments and officials; and
2. *House Joint Resolution No. 38*: a study of salary and employment issues of juvenile probation officers.

At its June 14 meeting, the Committee established a Local Government Subcommittee and assigned both of these studies to that Subcommittee. The Subcommittee will report periodically to the full Committee on the progress of the studies. The Subcommittee will make recommendations to the full Committee as to any legislation that may be necessary to implement the Subcommittee's findings.

### **OTHER STUDY ACTIVITIES**

The House Education Committee requested the Education and Local Government

Committee to study the issue of out-of-district attendance and the payment of tuition in response to the failure of House Bill No. 542 (1997) and Senate Bill No. 422 (1999), both of which attempted to address this difficult issue. At its June 14 meeting, the Committee acceded to this request and appointed a working group to look at the issue and bring some recommendations back to the Committee.

On July 7, 1999, the American Civil Liberties Union filed two lawsuits, one against Rosebud County and a second against the Ronan School District, for violations of the federal Voting Rights Act. The lawsuits maintain that allowing the at-large election of county commissioners and school district trustees makes it almost impossible for American Indians to get elected, even in counties and school districts with large Indian populations. At-large elections for county commissioners are mandated by state law, and a change in the law is necessary to address the problem. The Committee may be asked to sponsor legislation allowing county commissioners to be elected from geographic districts, otherwise known as single-member districts. State law already allows school trustees to create single-member districts, but it is optional on the part of the trustees.

The 1999 Legislature enacted Senate Bill No. 184 that created the Local Government Funding and Structure Committee and the Court Funding and Structure Committee whose purposes are to conduct a study of funding local government, including the courts, to ascertain the best method of allocating current and future resources. The Department of Administration is responsible for staffing both committees but may request the assistance of Legislative Branch agencies. The Education and Local Government Committee will interact with the Funding and Structure Committees on the study to revise local government laws and the study of juvenile probation officers' employment issues and will keep informed on the activities of both committees.

## **EDUCATION AND LOCAL GOVERNMENT INTERIM WORK PLAN**

### **Statutory Responsibilities**

1. Senate Bill No. 11 Program Review and Monitoring
  - a. Monitor the operation of the Board of Public Education, the Board of Regents of Higher Education, and the Office of Public Instruction
  - b. Review administrative rules promulgated by the Office of Public Instruction and the Board of Public Education
  - c. Solicit public comment on the operation of the board of Public Education, the Board of Regents, and the Office of Public Instruction
  - d. Provide regular reports to the Committee based on issue identification
  - e. Consider legislation to improve the operations of the board of Public Education, the Board of Regents, and the Office of Public Instruction
  
2. Postsecondary Education Policy and Budget Subcommittee

### **Interim Study Activities**

3. House Joint Resolution No. 29: a study of laws affecting local governments
  - a. Adoption of study plan - October 1, 1999
  - b. Completion of study tasks - October 1999 through August 2000
  - c. Adoption of final recommendations - September 2000
  
4. House Joint Resolution No. 38: a study of juvenile probation officers' employment issues
  - a. Adoption of study plan - October 1, 1999
  - b. Completion of study tasks - October 1999 through August 2000
  - c. Adoption of final recommendations - September 2000

### **Other Study Activities**

5. Out-of-district attendance and payment of tuition
  
6. Lawsuits against counties charging violations of federal Voting Rights Act
  
7. Summary of activities and interaction with Local Government and Court Funding and Structure Committees
  
8. Committee issues and other issues