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**EDUCATION
AND LOCAL GOVERNMENT
INTERIM COMMITTEE**

2007 — 2008 WORK PLAN

Adopted September 25, 2007

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General Information

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HOW THE E.L.G. PLANS ITS WORK

This draft document is an introduction to the Education and Local Government (ELG) Interim Committee and a proposed work plan which, if adopted by the committee, will help to guide its work for the 2007-2008 interim. It is a flexible document. The committee will refine tasks and timelines as information is gathered and evaluated. Having said that, it will benefit the committee to soon devise a plan that is fairly firm and predictable.

The work plan is a *decision making tool* to help committee members work together efficiently to set priorities and decide how and where to spend the ELG's limited time and resources. It includes statutory mandates, studies required by legislation from this past session, and suggested topics offered by committee members and staff. It becomes the blueprint for the 2007-2008 interim. Staff will then develop detailed draft "study plans" and timetables for *each* major study. Taken as a whole, the resource requirements of these varied initiatives need to be commensurate with the resources actually available. Those resources are budgetary as well as the time available to staff and members. At the end of this work plan is a proposed meeting schedule for the interim.

Committee Procedures and Public Participation

The Education and Local Government Interim Committee will operate under the *Rules, Procedures, and Guidelines for Interim Committees* adopted by the Legislative Council.

As required by law, 10 day advance public notice will be given for all meetings and the public will be given an opportunity to comment on any matter that is within the jurisdiction of the committee. The Chair may establish time limits for public comment, if necessary.

Interested persons may be added to the mailing list by contacting Fong Hom at (406) 444-0502, or the Legislative Services Division office at (406) 444-3064.

Agendas, memos, links and other information can be found on the ELG's website:

http://leg.mt.gov/css/committees/interim/2007_2008/edu_local_gov/default.asp

Appointment and composition of interim committees

Information about the formation of interim committees is provided in Section 5-5-211, MCA.

- (1) Senate interim committee members must be appointed by the committee on committees.
- (2) House interim committee members must be appointed by the speaker of the house.
- (3) Appointments to interim committees must be made by the time of adjournment of the legislative session.
- (4) A legislator may not serve on more than two interim committees unless no other legislator is available or is willing to serve.
- (5) (a) Subject to subsection (5)(b), the composition of each interim committee must be as follows:
 - (i) four members of the house, no more than two of whom may be of one political party; and
 - (ii) four members of the senate, no more than two of whom may be of one political party.
- (b) If the committee workload requires, the legislative council may request the appointing authority to appoint one or two additional interim committee members from each political party.
- (6) The membership of the interim committees must be provided for by legislative rules. The rules must identify the committees from which members are selected, and the appointing authority shall attempt to select not less than 50% of the members from the standing committees that consider issues within the jurisdiction of the interim committee. In making the appointments, the appointing authority shall take into account term limits of members so that committee members will be available to follow through on committee activities and recommendations in the next legislative session.
- (7) *An interim committee or the environmental quality council may create subcommittees. Nonlegislative members may serve on a subcommittee.* Unless the person is a full-time salaried officer or employee of the state or a political subdivision of the state, a nonlegislative member appointed to a subcommittee is entitled to salary and expenses to the same extent as a legislative member. If the appointee is a full-time salaried officer or employee of the state or of a political subdivision of the state, the appointee is entitled to reimbursement for travel expenses as provided for in 2-18-501 through 2-18-503.

Note: 5-5-211(7), MCA, above is important in terms of the authority to appoint the higher education subcommittee, the Postsecondary Education Policy and Budget (PEPB) described later.

Work Plan

STATUTORY DUTIES

Duties common to all interim 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 20-7-101, MCA, regarding standards of accreditation, provides that prior to adoption or amendment of any accreditation standard, the board of public education 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. 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.

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 gives the committee duties in the following areas:

Education

1. 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 Education ¹
 - c. Board of Regents of Higher Education; ² and
 - d. Office of Public Instruction;
2. Provide information to the Board of Regents regarding:
 - 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;
3. Periodically review the success or failure of the university system in meeting its annual goals and long-range plans;
4. Periodically review the results of outcome assessment programs;
5. Develop mechanisms to ensure strict accountability of the revenue and expenditures of the university system;
6. 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;
7. Act as a liaison between both the legislative and executive branches and the Board of Regents;
8. Encourage cooperation between the legislative and executive branches and the Board of Regents;

Local government

9. Act as a liaison with local governments;
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;

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.

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
18. Conduct interim studies as assigned.

HJR 22 STUDY

On May 11 the results of a legislator poll on potential interim studies were tabulated. HJR 22 ranked 15th out of 21. HJR 22 reads:

HOUSE JOINT RESOLUTION NO. 22 INTRODUCED BY W. JONES

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN APPROPRIATE INTERIM COMMITTEE TO STUDY REPAYMENT PROGRAMS AND OTHER INCENTIVE PROGRAMS TO SUPPORT ACCESS TO DENTAL CARE IN THE STATE, WITH EMPHASIS ON RURAL AREAS.

WHEREAS, access to a dentist in the rural or sparsely populated areas of Montana is difficult or nonexistent; and

WHEREAS, Montana's population of practicing dentists is growing older and concern exists in the dental profession in Montana that the supply of dentists is not being replenished; and

WHEREAS, it is anticipated that a large percentage of Montana dentists currently practicing will retire or reduce practice in the coming decade, severely restricting many Montanans' access to dental care; and

WHEREAS, Montana has no dental school of its own and must rely upon dental programs at other out-of-state educational institutions to provide Montana with graduate dental students; and

WHEREAS, for the medical profession, the state has created the Montana Rural Physician Incentive Program and the Montana Family Practice Residency Program, but no similar programs exist to bring new dentists into the state; and

WHEREAS, the University of Washington Dental School proposes a regional dental educational program entitled "the Regional Initiatives in Dental Education (RIDE) program" for Montana students; and

WHEREAS, proponents of the RIDE program request funding for the program from the State of Montana; and

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

WHEREAS, there is a need to determine whether requiring students who receive funding from the program to repay all or a portion of the funds or creating other incentive programs may increase access to dental care within the state by attracting and retaining dentists.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to study and make recommendations on issues regarding:

(1) initiatives to increase the supply of dental care professionals, especially in rural and underserved areas in Montana;

(2) programs that require students who receive educational support through the Regional Initiatives in Dental Education program to repay all or a portion of the funds appropriated by the State of Montana for their education; and

(3) dental loan forgiveness programs administered through the Office of the Commissioner of Higher Education.

BE IT FURTHER RESOLVED, that the committee request participation in the study by the Office of the Commissioner of Higher Education, the Office of Economic Development, the Department of Labor and Industry, the Department of Public Health and Human Services, and representation from dental health professionals.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2008.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 61st Legislature.

- END -

Background on HJR 22:

In response to concerns about the lack of dental care in many parts of Montana, the 2005 Legislature approved HB 522, which directed the Board of Regents/Commissioner of Higher Education to study the feasibility of establishing a University of Washington School of Dentistry Regional Initiatives in Dentistry (RIDE) program in Montana. The program would have trained eight Montana dental students each year, and the students would have been required to return to Montana for clinical practice. The 2005 Legislature appropriated \$10,000 for the study, and additional funding was provided by the University of Washington School of Dentistry, the American Dental Association Foundation, and the Robert Wood Johnson Foundation.

The study resulted in HB 395 in the 2007 Legislature. HB 395 would have created the regional dental education program in cooperation with the University of Washington and also would have established varying requirements for Montana students to repay the state for the cost of the dental education, depending on whether and for how long they returned to practice in Montana. HB 395 died in the Senate Finance and Claims Committee.

HB 49 STUDY

House Bill No. 49

HB 49 (Ch. 368, L. 2007) reads:

HOUSE BILL NO. 49
INTRODUCED BY R. HAMILTON
BY REQUEST OF THE EDUCATION AND LOCAL GOVERNMENT INTERIM COMMITTEE

AN ACT REQUIRING THE EDUCATION AND LOCAL GOVERNMENT INTERIM COMMITTEE TO APPOINT A SUBCOMMITTEE TO CONDUCT A STUDY OF LOCAL GOVERNMENT SPECIAL PURPOSE DISTRICTS; SPECIFYING THE MEMBERSHIP OF THE SUBCOMMITTEE; PROVIDING AN APPROPRIATION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, current laws governing special purpose districts are not uniform as to the creation, alteration, dissolution, right of protest, operation, funding, and structure of the districts; and

WHEREAS, this absence of uniformity creates confusion and results in numerous bills being introduced each legislative session to address disparities, differences, and specific situations; and

WHEREAS, a single set of statutes governing the creation, alteration, dissolution, right of protest, operation, funding, and structure of special purpose districts would simplify and streamline special purpose district processes.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Interim study on local government special purpose districts. (1) The education and local government interim committee provided for in 5-5-224 shall conduct an interim study of local government special purpose districts. The study must include:

(a) a comprehensive review of current law governing local government special purpose districts, including an inventory of all of the districts and the various processes provided in law specific to those districts;

(b) a determination of which special purpose districts should be included in the study and which should be excluded;

(c) consideration of the needs of cities and counties with regard to special purpose districts;

(d) consideration of the appropriateness of consolidating the processes for numerous special purpose districts into one statute or set of statutes; and

(e) any other aspect of special purpose districts that the committee determines should be addressed to achieve more consistency, clarity, and uniformity in special purpose district statutes.

(2) (a) The education and local government interim committee shall establish a subcommittee to conduct the study and report to the full committee. The subcommittee members must be appointed by the presiding officer of the committee. In making appointments of nonlegislative members, the presiding officer shall consider recommendations from the Montana association of counties and the Montana league of cities and towns. The subcommittee must include:

(i) four members, two from each political party and two from each house, who are legislators appointed to the education and local government interim committee;

(ii) one county commissioner;

(iii) one county clerk and recorder;

(iv) one county treasurer;

(v) one city manager;

(vi) one city commissioner or town council member; and

(vii) one town clerk.

(b) All of the members of the subcommittee have voting privileges on issues taken up by the subcommittee, but the nonlegislative members do not have voting privileges on the education and local government interim committee. Any final recommendations and other work products that will be represented as being produced or endorsed by the education and local government interim committee must be finally approved by the education and local government interim committee.

(c) Nonlegislative members of the subcommittee must be compensated as provided in 5-5-211(7).

(3) In conducting the study, the subcommittee shall involve and regularly consult with trustees of special purpose districts.

(4) The subcommittee may travel to the extent it considers appropriate to achieve an enhanced level of public participation in the study.

(5) The education and local government interim committee shall complete the study by September 15, 2008, and report to the 61st legislature on its findings and recommendations, including any recommendations for legislation.

Section 2. Appropriation. There is appropriated from the general fund to the legislative services division \$20,000 for the biennium beginning July 1, 2007, for use by the education and local government interim committee for the purposes provided in [section 1].

Section 3. Effective date. [This act] is effective on passage and approval.

- END -

Background on HB 49:

During the 2005-2006 interim, the Executive Director of the Montana Association of Counties (MACo) requested that ELG authorize the drafting of a committee bill or study resolution aimed at examining local government special purpose districts. Numerous special purpose districts are provided for in the Montana Code Annotated; however, the statutes vary widely with regard to how districts may be formed, altered, dissolved, protested, operated, funded, and structured. Bills are proposed and laws enacted every session that affect special purpose districts, further fragmenting this collection of statutes. Senators Story and Hawks were assigned to work on the details of a bill or resolution with staff and with MACo. Following those discussions, a bill draft that later became HB 49 was presented to and endorsed by the full committee.

HB 49 passed the House 73-27 (3rd Reading) and passed the Senate 42-8 (3rd Reading).

The requirements of the study are listed in subsection (1) of the bill and the membership is provided in subsection (2). ELG is required to establish a subcommittee to conduct this study and an appropriation of \$20,000 funds the subcommittee's operation.

OTHER TOPICS FOR INVESTIGATION

Within the time and resources available to committee members and staff, additional initiatives may be undertaken. As of the June organizational meeting, ELG members expressed interest in learning more about the following issues.

Regarding K-12 Education

1. New distance learning rule and dual (high school—college) credit programs.

Issue: On May 11, 2007, the Montana Board of Public Education ruled that all distance learning, including college courses, be supervised by a certified elementary or high school teacher endorsed in the discipline being taught. The Board voted to delay the implementation of the rule to as late as July 1, 2009, to allow for input from a 22-member task force. This interlude could allow the Education and Local Government Interim Committee, if interested, to consider the ramifications of this ruling. Specific considerations might include: (1) What impact might this have upon high school students, particularly in rural areas, if and when duly accredited

teachers/ professors are not available to teach the dual credit classes that now exist? (2) What are the financial implications of this rule for families who had hoped to avail of affordable dual credits via distance learning? What are the financial implications to the state if it must prepare more faculty certified elementary or high school teaching?

Approach:

- Monitor the task force and update the ELG committee.
- Check the policies of several neighboring states. What certification do they require of college and university professors who teach high school students in dual credit classes?

2. Department of Administration school facilities inventory

Issue: During the December 2005 Special Session, the legislature appropriated funds to conduct a facilities condition inventory to study the condition of school facilities in Montana. This study is being administered by Architecture and Engineering Division of the Department of Administration in two phases. Phase 1 was a brief survey completed by each school district, a summary of which was presented to the Legislative Finance Committee in 2006. This information is being used as baseline data for Phase 2 to be completed in FY2008.

Approach:

- Ensure that the Department of Administration presents to the ELG committee periodically.
- When the study conclusions become clear, the committee can then decide what steps, if any, it might want to take.

3. Funding in second year of biennium

Issue: Some concerns have been expressed that the K-12 funding provided by the last legislative session drops too precipitously in the second year of this biennium.

Approach:

- Clarify the numbers and determine if there is a significant cause for concern.
- Steps based on those initial findings.

4. Financial challenges for rural schools

Issue: Small schools and districts face unique financial challenges. How does a state with comparable demographics such as Oregon handle this?

Approach:

- Examine Oregon: (1) Does the state make any distinction, for funding purposes, between small rural and larger urban schools? (2) If there are any such distinctions, what are the defining criteria? (3) If there are any such distinctions, how are they expressed in the state's larger funding formulae. Provide concrete examples.

5. Preparedness for college

Issue: By one authoritative estimate, 35% of Montana high school graduates need remedial courses in writing and math upon arriving in college.

Approach:

- Gather current statistics on remedial courses being taken.
- Examine options such as the Taylor Plan* as applied in Louisiana and Wyoming.
(* A scholarship plan that was presented to the House and Senate education committees during session the 2007 legislative session.)

6. Education Savings Plans

Issue: 529 Education Savings Plans are said to have fees that might offset any savings.

Approach:

- Clarify the numbers and determine if there is a significant concern.
- Examine what fees other states impose.
- If desired, examine possible legislative remedies.

Regarding Higher Education

(The PEPB will establish its priorities at the September 25 meeting. Staff has already begun to discuss with those subcommittee members some of the following matters. Note that items listed below as "monitor" would likely consist of a single report at one meeting)

- Complete the interim study in HJR 22 (outlined above)
- Review, renegotiate, and reaffirm the "shared policy goals" approved by PEPB, ELG, and the Board of Regents in 2006
- Review and consider the accountability measures project from 2006, including:
 - Request reports from Commissioner of Higher Education on:
 - the transferability initiative (HB 2 funded \$1.5 million)
 - distance learning (HB 2 funded \$950,000)
 - student assistance programs (HB 2 expanded by \$4.0 million)
 - Consider other accountability measures for 2011 biennium budget (based upon Regent budget initiatives and executive planning process); and make recommendations to the 2009 legislature
- Review the community college funding formula changes (SB 12 from 2007 session) and consider this formula for the university unit campuses funding
- Review the 2011 biennium budget request by the Board of Regents and consider accountability measures for recommendation to the 2009 legislature
- Monitor proposed legislation for 2009 session
- Review agriculture agencies overhead cost rates and plans at MSU
- Monitor Bitterroot Valley community college proposal and process
- Monitor the Six-mill levy process for November 2008 general election (SB 16 from the 2007 session)

- Monitor the equipment and program development appropriations that OCHE is to grant out to campuses, community colleges, and research agencies (\$6.5 million), verify the legislative requirement for funding match and monitor the statewide workforce development plan process that is required by federal funding (Perkins grant program)
- Conduct a K-12 & Higher Education Funding review...for legislative member education purposes primarily
- Discuss the strategic role of two-year education within the university system (e.g. Colleges of Technology, community colleges, and two-year degree programs)

Regarding Local Government

- Complete the HB 49 study as articulated in the bill (included verbatim on page in this work plan)
- Address any local government-related matter the committee determines to be appropriate that is brought to the committee by the Montana Association of Counties, the Montana League of Cities and Towns, any local government official, or member of the public
- Address any local government-related matter the committee determines to be appropriate that is brought to the committee by a committee member

SUBCOMMITTEE ARRANGEMENTS

The ELG deciding upon “Alternative One” (on the following page) as its most optimal arrangement for subcommittees over the interim. It took into consideration the following

Postsecondary education considerations:

Under the authority of 5-5-211(7), MCA, the Education and Local Government Interim Committee (ELG) may appoint a subcommittee on postsecondary education policy and budget (PEPB). The PEPB was included as a separate statutory interim committee until the 1999 legislative session when that section was repealed. Since that time, PEPB has existed as a discretionary interim subcommittee appointed at the pleasure of the ELG, which has appointed a PEPB in every interim since that time.

PEPB members have traditionally included 4 or 6 legislative members, appointed by the ELG chair, 3 Regent members appointed by the Board of Regents Chair, an executive branch member appointed by the Governor, and the Commissioner of Higher Education serves ex-officio. The PEPB is traditionally staffed by the university system analyst from the Legislative Fiscal Division.

When the PEPB subcommittee is appointed, all those duties assigned to the ELG in 5-5-224, MCA, are delegated to PEPB, which then creates an interim work plan based upon these duties and other projects of interest. As a subcommittee, PEPB only has the authority to make recommendations to the interim ELG for consideration.

K-12 education considerations:

In an arrangement unique to the 2005-2006 interim, a Quality Schools Interim Committee was formed in addition to the ELG interim committee. It was tasked to assess the educational needs of the children in Montana's public elementary and secondary schools; determine the total costs of providing the basic system of free quality schooling; determine the state's share of the total costs; construct a proper funding formula; and prepare the appropriate legislation. A comparable such committee has not been legislated for this interim.

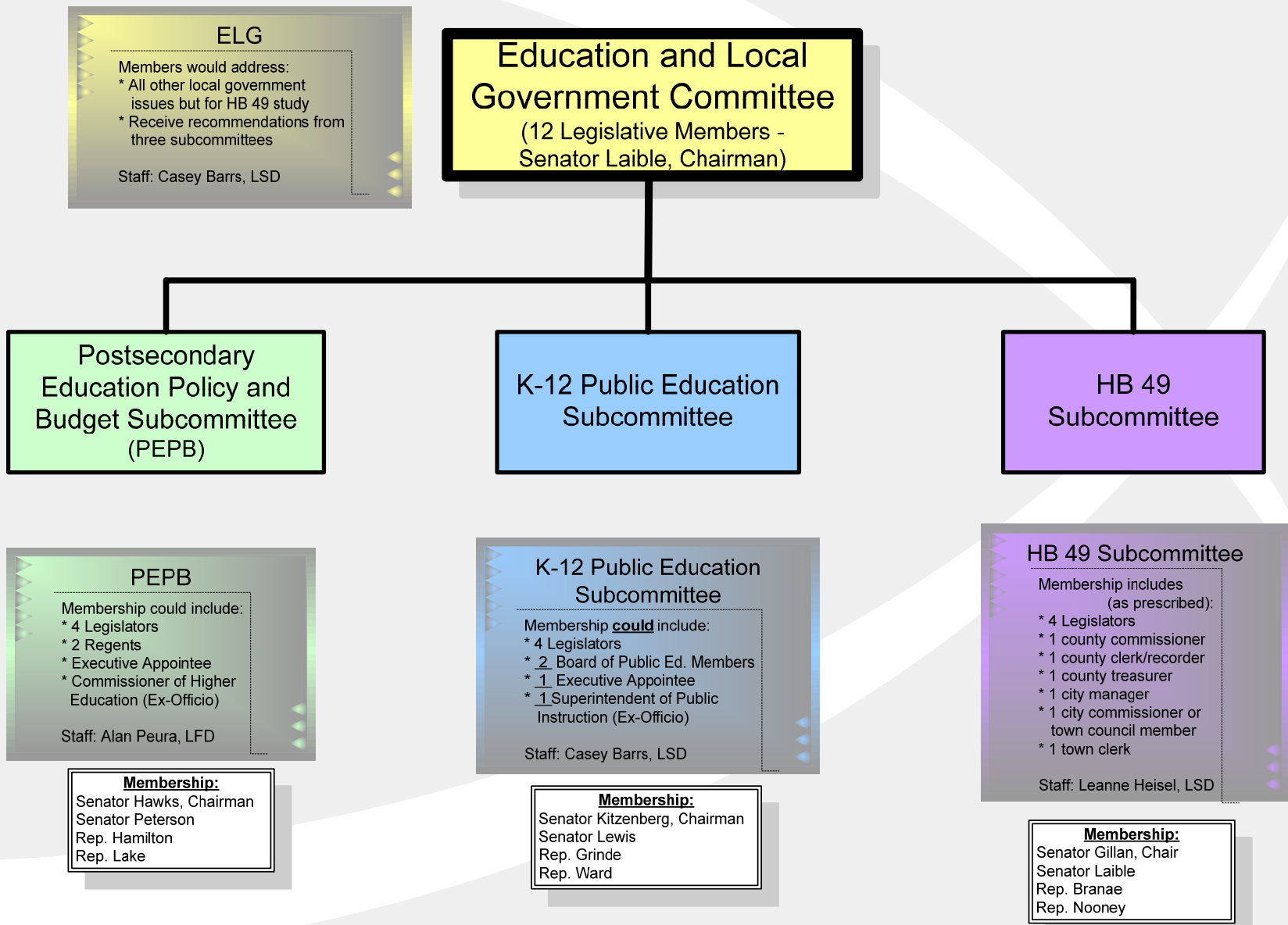
At the organizational meeting, the committee decided that forming a K-12 subcommittee would create a good opportunity both to sit more frequently and deliberately with members of the education community, and to ensure the members' "continuing education" on K-12 issues at a time when term limits take a toll on the Legislature's institutional memory and mastery of these complex school issues.

Local government considerations:

As noted, HB 49 of this past session requires the ELG to establish a subcommittee to conduct a study on local government special purpose districts and report to the full committee. The scope and funding of this subcommittee is limited to the issue of special purpose districts—not any statutory duties or elective tasks that might arise.

Alternative One
Selected by Committee

Education and Local Government Interim Committee
2007-2008 Organizational Chart



COMMITTEE SCHEDULE

2007-2008

- | | |
|-----|-------------------|
| 1st | June 29, 2007 |
| 2nd | September 25 |
| 3rd | December 13-14 |
| 4th | March 13-14, 2008 |
| 5th | June 12-13 |
| 6th | September 4-5 |
- Final decision by committee on content of reports and proposed legislation, if any.
 - Selection of bill sponsors.
 - Review proposals and decide whether or not to request that staff draft BoE, BoPE, BoR or OPI legislation for preintroduction.

Budget

Education and Local Government Committee

\$12,237 through the end of June 30, 2007 (reverts at the end of the 2007 biennium)

\$40,956 for the 2009 biennium

HB 49 Subcommittee (earmarked for HB 49 study)

There is appropriated from the general fund to the legislative services division \$20,000 for the biennium beginning July 1, 2007, for use by the education and local government interim committee for the purposes provided (in section 1 of HB 49).

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