

Elsie Arntzen, Superintendent

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OFFICE OF PUBLIC INSTRUCTION
STATE OF MONTANA

Putting Montana Students First **A⁺**



MEETING PROJECT NAME: Education Advocates' Meeting

DATE OF MEETING: June 18, 2019

TIME: 9:05 AM – 9:50 AM

LOCATION: OPI – 1201 11th Avenue Conference Room

ATTENDEES:

PRESENT

Pete Donovan, Executive Director, Board of Public Education (BOPE)

Dan Rask, Executive Director, Montana Small School Alliance (MSSA)

Dennis Parman, Executive Director, Montana Rural Education Association (MREA)

Dianne Burke, Executive Director, Montana Quality Education Coalition (MQEC) (via phone)

Adria Lawrence, Dean of the Phyllis J. Washington College of Education University of Montana (via phone)

Robert Nava, Dean of the College of Education at Montana State University Billings (via phone)

Pad McCracken, Legislative Services (via phone)

Kirk Miller, Executive Director (SAM) (via phone)

OPI STAFF

Elsie Arntzen, State Superintendent

Julia Swingley, Chief Legal Counsel

Jule Walker, Deputy Superintendent for Operations

Susie Hedalen, Deputy Superintendent for Education Services

Julie Murgel, School Improvement ESSA Coordinator

Dylan Klapmeier, Director of Communications and Federal Regulations (via phone)

John Perkins, Director of Public Policy (via phone)

RECORD KEEPER

Virginia Díaz, Administrative Clerk, Office of Public Instruction



TOPIC & PRESENTER INFO

HB 351 Rule, Julia Swingley, Jule Walker

- The OPI and BOPE have held meetings to set dates for application deadlines.
- Transformational Learning applications will be accepted from school districts as of October 1, 2019 and through November 1, 2019.
 - Applications will be received on a first come-first served basis.
 - Application process will be streamlined to ensure any district interested in applying for Transformational Learning has the opportunity.
- Per Pete Donovan, at the BOPE meeting that will be held on July 11, 12, 2019 the board will:
 - Motion to give the OPI administrative tasks to ensure the process moves forward and distributes the available funds
 - Be voting on the Rule
 - Allow for public comment

TOPIC & PRESENTER INFO

ESSA Amendment, Susie Hedalen, Julie Murgel

- Per the U.S. Department of Education Montana was to submit an amendment to our approved State Plan defining ineffective, out-of-field, and inexperienced teachers by May 15, 2019
 - The DOE has confirmed receipt of the definition (submitted May 13, 2019)
- Montana also needed to show that low-income and minority children enrolled in Title I, Part A schools are not served at disproportionate rates by ineffective, out-of-field, or inexperienced teachers
 - A data analysis was run and provided to the DOE on June 10, 2019
 - The results show that in Montana low-income and minority children are not being served at disproportionate rates by the three categories of teachers.
 - The DOE has confirmed receipt of the data analysis description
- The ESSA's focus is on supporting students at the neediest schools, according to the Report Cards. The ESSA Plan is a "bottoms-up" plan designed to provide flexibility that involves the community and family engagement, and to ensure the schools meet the students' needs.

TOPIC & PRESENTER INFO

Interim Committee, John Perkins

- John Perkins is inviting input on legislative priorities the OPI's education partners are focusing on, so that he can be of help during the interim committee session.



- First organizational meeting for the Education Interim Committee will be Monday, June 24, 2019 beginning at 9 a.m. at the State Capitol, room 102. The agenda and materials are posted online (and included with these meeting reflections)
 - At 2:30 pm on Monday, June 24th, the Education Interim Committee will look for input from stakeholders and the public on their workplan. All are invited to attend and offer suggestions
 - If unable to attend in person but would like to submit written testimony, [email Pad McCracken](#).

TOPIC & PRESENTER INFO

New Deans of Education, *Elsie Arntzen*

- Introduction of new Deans
 - Dr. Adria Lawrence – brief overview of newly reconfigured Phyllis J. Washington College of Education and vision to pursue ways in which candidates can work/learn together.
 - Dr. Robert Nava – new to Montana, will continue to listen and hear all stakeholders and better understand the needs of Montana; current faculty fully committed to addressing the current teacher shortage.

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the adoption of New Rule I pertaining to deadlines for Transformational Learning Aid) NOTICE OF PROPOSED ADOPTION) NO PUBLIC HEARING) CONTEMPLATED

TO: All Concerned Persons

1. The Board of Public Education (Board) proposes to adopt the above-stated rule.

2. The Board will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Board no later than 5:00 p.m. on July 5, 2019, to advise us of the nature of the accommodation that you need. Please contact Pete Donovan, Executive Director, 46 N. Last Chance Gulch, Suite 2B, PO Box 200601, Helena, Montana, 59620-0601; telephone (406) 444-0300; fax (406) 444-0847; or e-mail pdonovan@mt.gov.

3. The rule as proposed to be adopted provides as follows:

NEW RULE I DEADLINES FOR APPLICATIONS: (1) For applications submitted for transformational learning aid in 2019 the following deadlines apply:
(a) The opening date for applications is October 1, 2019; and
(b) The closing date for applications is November 1, 2019.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-114, MCA, 2019 Mont. Laws 402;
IMP: Mont. Const. Art. X, sec. 9, 2019 Mont. Laws 402.

REASON: The Board proposes to adopt the proposed rule to meet the requirement in HB 351 (2019) (2019 Mont. Laws 402) that the Board establish by rule the deadlines for applications. The Superintendent of Public Instruction recommended the proposed deadlines to the Board, after consultation with statewide education organizations, because the deadlines provide a reasonable time for school districts to prepare and file applications and provide a reasonable time for review of and decision on the applications prior to distribution of funds. The Superintendent of Public Instruction determined that the proposed deadlines are administrative in nature and, thus, the negotiated rulemaking process was unnecessary.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Pete Donovan, Executive Director, Board of Public Education, 46 N. Last Chance Gulch, Suite 2b, PO Box 200601, Helena, Montana, 59635; telephone (406) 444-0300; fax (406) 444-0847; or e-mail pdonovan@mt.gov, and must be received no later than 5:00 p.m., July 19, 2019.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Pete Donovan at the above address no later than 5:00 p.m., July 19, 2019.

6. If the agency receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 41 persons based on 409 public school districts in Montana.

7. The agency maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in #5 above or may be made by completing a request form at any rules hearing held by the agency.

8. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

9. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was contacted by phone on May 21, 2019.

10. With regard to the requirements of 2-4-111, MCA, the agency has determined that the adoption of the above-referenced rule will not significantly and directly impact small businesses.

/s/ Pete Donovan
Executive Director
Rule Reviewer

/s/ Dr. Darlene Schottle
Dr. Darlene Schottle
Chair
Board of Public Education

Certified to the Secretary of State June 11, 2019

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OFFICE OF PUBLIC INSTRUCTION
STATE OF MONTANA

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May 13, 2019

The Honorable Betsy Devos
U.S. Secretary of Education

U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202

Dear Secretary Devos,

The U.S. Department of Education approved Montana's State Plan under the Every Student Succeeds Act with the understanding that by May 15, 2019, Montana would submit an amendment to its State Plan to comply with ESEA section 1111(g)(1)(B) which requires definitions of ineffective, out-of-field, and inexperienced teachers to show that low-income and minority children enrolled in Title I, Part A schools are not served at disproportionate rates by these three categories of teachers. Montana's current State Plan has approved definitions for out-of-field and inexperienced teachers. This amendment is to provide a definition for ineffective teacher.

Montana has defined these terms as:

- **Ineffective:** Montana teachers who are non-licensed or show a pattern of ineffective practices as determined by a local evaluation.
- **Out-of-field:** Montana licensed teachers teaching outside their endorsed subject areas.
- **Inexperienced:** Montana teachers with less than one year of teaching experience.

Montana is a local control state and does not collect data on local evaluations. Upon approval of this amendment, the data on non-licensed teachers will be analyzed and reported along with out-of-field and inexperienced teachers.

Attached to this email is a public document describing our amendment process, consultation with the governor, and public comment period.

Thank you,

Elsie Arntzen
Superintendent
Montana Office of Public Instruction

A handwritten signature in black ink that reads "Elsie Arntzen". The signature is written in a cursive style and is positioned over the typed name and title of the sender.



June 10, 2019

Montana Amendment Clarification for Ineffective Teacher

Amended Definition Submitted to the DOE:

The U.S. Department of Education approved Montana's Consolidated State Plan in January 2018 under the federal Every Student Succeeds Act (ESSA) with the understanding that by May 15, 2019, Montana would submit an amendment to its State Plan to comply with ESEA section 1111(g)(1)(B) which requires definitions of ineffective, out-of-field, or inexperienced teachers to show that low-income and minority children enrolled in Title I, Part A schools are not served at disproportionate rates by these three categories of teachers. Montana's current State Plan has approved definitions for out-of-field and inexperienced teachers. **This amendment is to provide a definition for ineffective teacher.** Montana has defined these terms as:

- **Ineffective:** Montana teachers who are non-licensed or show a pattern of ineffective practices as determined by a local evaluation.
- **Out-of-field:** Montana licensed teachers teaching outside of their endorsed subject areas.
- **Inexperienced:** Montana teachers with less than one year of teaching experience.

Description

The percent of ineffective, out-of-field, or inexperienced teachers for the 2018-2019 school year was gathered and evaluated to determine if low-income and minority students enrolled in schools receiving funds under Title I, Part A are served at disproportionate rates by ineffective, out-of-field, or inexperienced teachers defined in ESEA Section 1111(g)(1)(B). The OPI used annual non-fiscal data collected through the Montana State Educator Information System ([MSEIS](#)) to report the percent of ineffective, out-of-field (mis-assigned), or inexperienced teachers. The ineffective teacher data is reflected in the non-licensed teacher data generated through MSEIS. Further, the OPI used data collected annually through the Achievement in Montana ([AIM](#)) statewide student information system to establish the poverty and minority quartiles for statistical analysis in the determinations of disproportionate rates of access to effective educators in Title I, Part A schools.

Through this evaluation, Montana verified that low-income and minority children enrolled in Title I, Part A schools are not served at disproportionate rates by ineffective, out-of-field, or inexperienced teachers as defined in ESEA section 1111(g)(1)(B). This data is presented in the following tables.

Data Analysis for the 2018-2019 School Year

Table 1: Comparison of Poverty Quartiles by Percent of Ineffective, Out-of-Field, or Inexperienced Teachers

| Poverty Quartiles | Percentage of Ineffective Teachers* | Percentage of Out-of-Field Teachers | Percentage of Inexperienced Teachers |
|--------------------------|--|--|---|
| Low Poverty | 0.12% | 0.00% | 2.61% |
| High Poverty | 0.39% | 0.26% | 3.58% |

Percentages are calculated to the nearest hundredth.

*Consistent with ESEA section 1111(g)(1)(B) this description should not be construed as requiring a State to develop or implement a teacher, principal or other school leader evaluation system. Since Montana is a local control state and does not collect data on local evaluations, the percentages reported for ineffective teachers is data on non-licensed teachers.

Table 1 Analysis

Table 1 displays the percentage of ineffective, out-of-field, or inexperienced teachers in all Title 1, Part A schools by high and low poverty quartiles. The analysis determined that in Montana, high poverty quartile Title I, Part A schools are not served at a disproportionate rate of ineffective, out-of-field, or inexperienced teachers. The difference between the low and high poverty quartiles for all three categories of teachers is less than 1%.

Table 2: Comparison of Minority Quartiles by Percent of Ineffective, Out-of-Field, or Inexperienced Teachers

| Minority Quartiles | Percentage of Ineffective Teachers* | Percentage of Out-of-Field Teachers | Percentage of Inexperienced Teachers |
|---------------------------|--|--|---|
| Low Minority | 0.22% | 0.10% | 2.64% |
| High Minority | 0.34% | 0.23% | 3.36% |

Percentages are based on quartiles demographics and calculated to the nearest hundredth.

*Consistent with ESEA section 1111(g)(1)(B) this description should not be construed as requiring a State to develop or implement a teacher, principal or other school leader evaluation system. Since Montana is a local control state and does not collect data on local evaluations, the percentages reported for ineffective teachers is data on non-licensed teachers.

Table 2 Analysis

In Table 2, the OPI team compared the percentage of ineffective, out-of-field, or inexperienced teachers in all Title 1, Part A schools, in 2019, by high and low minority quartiles. The analysis determined that in Montana, high minority quartile Title I, Part A schools are not served at a disproportionate rate of ineffective, out-of-field, or inexperienced. The difference between the low and high minority quartiles for all three categories of teachers is less than 1%.

Public Reporting of Disproportionate Rates of Access to Educators

As required by the ESSA, the OPI will publicly report the percent of teachers described and determined as ineffective, out-of-field, or inexperienced. The public reporting will be consistent with applicable federal and state privacy law and policies. The public report will be posted on the Montana OPI website, under the [ESSA tab](#).

About the Committee

The Education Interim Committee (EDIC) is a joint bipartisan committee of the legislature that meets between legislative sessions. The EDIC's statutory duties include review of proposed administrative rules and draft legislation, as well as completing any studies assigned to it. The committee also monitors the operations of the the Board of Public Education, the Office of Public Instruction, the Board of Regents of Higher Education, the Montana Historical Society, the Montana Arts Council, and the Montana State Library.

Committee Members



REPRESENTATIVE
FRED ANDERSON (R).



SENATOR
CARLIE BOLAND (D).



REPRESENTATIVE
MOFFIE FUNK (D).



REPRESENTATIVE
BRUCE GRUBBS (R).



REPRESENTATIVE
CONNIE KEOGH (D).



SENATOR
EDIE MCCLAFFERTY (D).



SENATOR
DAN SALOMON (R).



SENATOR
RUSSEL TEMPEL (R).



REPRESENTATIVE
SUE VINTON (R).



REPRESENTATIVE
TOM WOODS (D).

Committee Staff:

Pad McCracken, Lead Staff

Laura Sankey Keip, Attorney

Bri Nordhagen, Secretary

Dr. Adrea Lawrence, an educational historian, has been named dean of the Phyllis J. Washington College of Education at the University of Montana. Lawrence has served as interim dean for the past 17 months, and she officially will transition to the permanent position July 1.



Lawrence earned a Ph.D. in educational leadership and policy studies from Indiana University, and a master's degree in secondary social studies instruction and curriculum and bachelor's degree in American studies from the University of Colorado at Boulder.

She launched her career in education as a high school social studies teacher in Colorado. Her doctoral research focused on the implementation of educational policy within a Native American community in New Mexico in the early 1900s, and her interests in history and policy led her to focus on how people learn and how they apply what they learn. Her research also explored how education policy affects people over generations and how scholars communicate their research and discoveries.

The search committee for the Dean of the College of Education at Montana State University Billings has announced the final candidate for the position as Dr. Roberto Nava.



Roberto Nava is currently Associate Dean of the Metropolitan State University of Denver in Denver, Colo. Before assuming this position, he was the Director of Teacher Education and an Associate Professor at Warner Pacific University in Portland, Ore. He holds a Ph.D. in Education from Oregon State University in Corvallis, Ore. in addition to a master's degree in Education from George Fox University in Newburg, Ore., and a bachelor's degree in Business Administration from Oregon State University.



Education Interim Committee

66th Montana Legislature

SENATE MEMBERS

CARLIE BOLAND
EDIE MCCLAFFERTY
DAN SALOMON
RUSSEL TEMPEL

HOUSE MEMBERS

FRED ANDERSON
MOFFIE FUNK
BRUCE GRUBBS
CONNIE KEOGH
SUE VINTON
TOM WOODS

COMMITTEE STAFF

PAD MCCRACKEN, Research Analyst
LAURA SANKEY KEIP, Staff Attorney
BRI NORDHAGEN, Secretary

DRAFT AGENDA Education Interim Committee June 24, 2019 Room 102, State Capitol

"In the heat of the tightly structured, 90-day session, legislators often identify issues they want to study in more depth. The interim offers you a more measured opportunity to research, meet with subject-matter experts, and listen to the public's perspectives on critical and complex issues. It allows you to define problems, explore alternatives, seek solutions, and propose and test ideas."

"Life After Sine Die"

Note: Agenda times are approximate. Some agenda items may require more or less time than indicated.

Monday, June 24

9:00 **Call to order - roll call - member and staff introductions** - Sen. McClafferty

9:15 **Committee administration** - Pad McCracken, Committee Staff

- Budget overview
- Compensation and expense reimbursement
- Rules, Procedures, and Guidelines for Interim Committees
- Committee discussion/adoption of rules

9:45 **Election of committee presiding officers**

10:00 **Committee overview** - Pad and Laura Sankey Keip, Staff Attorney

- Committee background
- Article X and constitutional considerations, roles, and responsibilities
- Overview of draft work plan
 - ▶ Statutory duties
 - ▶ Administrative rule review
 - ▶ Study assignment(s)
 - ▶ Other ed-related studies and LFC/LFD coordination
 - ▶ Other topics

- 11:00 **Office of the Commissioner of Higher Education (OCHE)** - Clayton Christian, Commissioner of Higher Education
- 2019 Session review
 - OCHE/Board of Regents update and activities
 - Requests/suggestions for work plan
- 12:00 **Lunch**
- 1:00 **Office of Public Instruction (OPI)** - Elsie Arntzen, Superintendent of Public Instruction
- 2019 Session review
 - OPI update and activities
 - Requests/suggestions for work plan
- 1:30 **Board of Public Education (BPE)** - Peter Donovan, Executive Director
- Introduction to BPE role and duties
 - BPE update and activities
 - Requests/suggestions for work plan
- 1:45 **2019 Legislation implementation updates** - OPI and BPE
- SB 140 (Cary Smith; dyslexia)
 - HB 211 (Jones; teacher student loan repayment)
 - HB 351 (McKamey; encourage transformational learning)
 - HB 387 (Jones; advanced opportunities)
- 2:15 **Governor's Office update and input**
- 2:30 **Stakeholder and public comment on work plan, including HJ 56**
- 3:15 **Work plan discussion**
- How does the committee wish to fulfill its statutory duties?
 - How does the committee wish to conduct the HJ 56 study?
 - What other topics does the committee wish to explore and to what degree?
 - Work plan and meeting schedule revision and adoption
- 4:15 **Public Comment*** on any other topic within the committee's jurisdiction
- 4:30 **Wrap up - next meeting date and agenda items - adjourn**

*Public comment provided in person to the committee is a public record that is videotaped, archived, and available on the Internet. Public comment submitted in writing at a committee meeting is a public record that will be posted to the legislative Web site as part of the minutes log for the committee meeting.

*The Montana Legislative Services Division will make reasonable accommodations for persons with disabilities who wish to participate in this public meeting. For questions about accessibility or to request accommodations, please contact Lenore Adams at 406-444-4456 or leadams@mt.gov as soon as possible before the meeting date.



Rules, Procedures, and Guidelines For Interim Committees

Adopted by the Legislative Council:

May 29, 2019



Published by.
Montana Legislative Services Division

Address.
PO Box 201706
Helena, MT 59620-1706

Phone.
406.444.3064

**RULES, PROCEDURES, AND GUIDELINES FOR
LEGISLATIVE INTERIM COMMITTEES AND ACTIVITIES**

Preamble:

Legislative committees operating during the interim between regular legislative sessions constructively and collectively address and resolve critical public policy issues for Montanans. It is the general policy of the Legislature that interim committees reach general agreement on any issue that requires a committee decision. If general agreement cannot be reached, the presiding officer may call for a vote of the members.

I. QUORUMS/PARLIAMENTARY PROCEDURES

- A. Meetings of legislative interim committees (committees) are held in the State Capitol unless otherwise designated by the presiding officer.
- B. Notice of regular meetings must be given to the members and the public a minimum of 10 days prior to each meeting.
- C. Public notice includes posting to the Legislative Branch website the time, location, and agenda of meetings, disseminating the material to news media, committee members, and interested persons. Staff of the Legislative Services Division (LSD) shall maintain an updated mailing list of persons stating an interest in each committee's activities. Anyone who requests to be included on the mailing list must be included. If practical and feasible, notice may also be given by U.S. mail, e-mail, fax, or other means.
- D. A special meeting may be scheduled by a majority of members at any meeting or may be called, with at least 24-hour notice to the members, by the presiding officer or a majority of a committee. A special meeting may not include agenda items that require a public hearing.
- E. Meetings of committees and subcommittees must be conducted under the established rules of the Montana Senate as to quorums and parliamentary procedure.

**RULES, PROCEDURES, AND GUIDELINES FOR
LEGISLATIVE INTERIM COMMITTEES AND ACTIVITIES**

II. PUBLIC PARTICIPATION GUIDELINES

- A. Interim committee members review and assess the development and implementation of public policy. Public comment is required and assists committees in their policy role.
- B. Each committee is committed to providing an opportunity for effective public involvement in public policy development and review.
- C. (1) Except as provided in subsection (2) and in accordance with subsection (3), public comment must be accepted on agenda items. Public comment may be taken in person or through written communication.
(2) Public comment is not accepted over the phone or via teleconferencing.
(3) Public comment provided in person to the committee is a public record that is videotaped, archived, and available on the website. Public comment submitted in writing at a committee meeting is a public record that will be posted to the legislative website as part of the minutes log for the committee meeting.
- D. To manage the committee's time and agenda, the presiding officer of a committee may limit individual public comment in a manner that allows equal and fair opportunity for public comment.
- E. Submission of written comments is encouraged. Written comments are accepted at any time through electronic or regular correspondence and will be copied to all committee members and entered into the record.
- F. Common courtesy is required.
- G. The presiding officer has the discretion to recess committee meetings whenever considered appropriate.
- H. Recording or videotaping of committee meetings is permissible in a manner that does not disrupt the meeting.

III. ELECTION OF OFFICERS

- A. Nominations for the presiding officer and vice-presiding officer of a committee must be made during the first meeting of the committee after appointments of new members. The presiding officer and the vice-presiding officer may not be of the same political party.

**RULES, PROCEDURES, AND GUIDELINES FOR
LEGISLATIVE INTERIM COMMITTEES AND ACTIVITIES**

B. To be elected, a candidate shall obtain a majority vote or a majority vote in accordance with Section IV(B).

C. Members shall vote for the presiding officer and vice-presiding officer by voice vote or a roll call vote.

IV. VOTING AND PROXY VOTES

A. Proxies are discouraged. For the exercise of a proxy to be valid, the deputized member shall hold a written proxy from the absent member.

B. For the 2019-2020 interim, if additional members were appointed to an interim committee and it does not include equal representation from the two chambers, the members from each chamber are recommended to vote separately. A majority of each chamber's committee members must agree before any action may be taken, unless otherwise determined by the interim committee in the adoption of their interim committee procedures.

V. APPOINTMENTS

The presiding officer, in consultation with the vice-presiding officer, may appoint a member as the presiding officer of a subcommittee, a member of a subcommittee, and as necessary, nonlegislative members of special committees.

VI. SUBCOMMITTEES

A. The presiding officer, in consultation with the vice-presiding officer, may establish temporary or standing subcommittees of the interim committee to make investigations or perform other functions as may be delegated by the committee.

B. The presiding officer of a subcommittee shall work closely with the committee staff in determining research priorities within the topic areas assigned to the subcommittee. Significant conflicts between committee research and subcommittee research responsibilities may be referred to the presiding officer for resolution.

C. The presiding officer of a subcommittee shall make, on behalf of the subcommittee, periodic reports and recommendations to the committee.

D. Any recommendation of a subcommittee is a recommendation to the full committee only. Only the full committee takes action to implement a recommendation, which should

**RULES, PROCEDURES, AND GUIDELINES FOR
LEGISLATIVE INTERIM COMMITTEES AND ACTIVITIES**

be based on clearly stated findings and recommendations that are formally adopted by the full committee.

VII. STAFF RESEARCH

- A. The Executive Director of the LSD is responsible for managing the staff's workload under guidelines established by the Legislative Council.
- B. Committee staff assist individual committee members on requests by compiling and analyzing material relating to the committee's statutory responsibilities.
- C. By the conclusion of the second regular meeting following appointment of new members, the committee shall establish a work plan for the biennium.
- D. Priority is given to research relating to the committee's primary study topics as identified in the approved committee work plan.
- E. A request from an individual member for research not included in the work plan may not interfere with research required by the plan. Staff work to respond to a research request not included in the work plan may not exceed 16 hours without approval of the presiding officer and vice-presiding officer.
- F. The limitation on conducting research does not apply to bill drafting services during and immediately preceding a legislative session.

VIII. REVIEW COMMITTEE

The presiding officer, vice-presiding officer, and subcommittee presiding officer, if any, shall serve as a review committee for any publication required by statute.

IX. TRAVEL AND EXPENSE REIMBURSEMENT

- A. The presiding officer is responsible for authorizing out-of-state travel by committee members that will result in a request for reimbursement from the committee's budget.
- B. Committee members shall receive salary and be reimbursed for meals, lodging, mileage, and miscellaneous expenses as provided by law and the travel policy established by the Legislative Council.
- C. Overnight lodging is allowed when a legislator would be required to leave home

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earlier than 6:30 a.m. or arrive home later than 6:30 p.m. to have attended the full meeting or have conducted all of the legislative business authorized. To compute whether this is required, an average travel speed (overall including incidental stops) of 50 miles an hour is used. The one-half hour immediately preceding and immediately following a meeting or legislative activity is an in-town travel shift and considered to be part of the total meeting schedule for the purposes of the reasonableness computation.

D. A member is considered necessarily away from home on the day of a meeting or other authorized legislative activity and on any other day when travel is required.

E. Subject to statute, a meal falling within reasonable travel times may be claimed. Special circumstances are considered in determining reasonableness. Such circumstances may include inclement weather, a legislator's health, variables related to flying instead of driving, and schedule conflicts which require a member to choose a more expensive mode of travel in order to participate in the legislative activity. Special circumstances should be clearly presented on the claim form.

X. MINUTES OF INTERIM COMMITTEE MEETINGS

A. The digital recordings of interim committee meetings are the official minutes of interim committee meetings.

B. In conjunction with the digital minutes, staff will prepare an annotated log as an index and time stamp to the digital record. The log will:

- (1) indicate at what points during the meeting the various agenda items are found in the digital record;
- (2) identify each speaker and detail each motion and vote;
- (3) describe the topic of discussion, including identification of critical discussion or questions between committee members and witnesses, staff, and each other; and
- (4) establish links on the website to documents discussed by or presented to an interim committee.

C. If a committee tours or travels outside a meeting room setting, the minutes will identify the location of the tour or travel, and committee and staff attendance.

XI. REQUESTS FOR MATERIAL

A. Right to Know Policy:

- (1) Records subject to constitutional individual privacy protection are protected from public review or scrutiny.
- (2) All other records are subject to right to know provisions of the Constitution.

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LEGISLATIVE INTERIM COMMITTEES AND ACTIVITIES**

(3) It is necessary for the staff to protect records from theft, loss, defacement, or alteration and to prevent undue interference with the discharge of committee functions.

B. The following procedures apply to records that are available for public inspection and copying:

(1) Committee records are available for inspection and copying upon request by any person during regular office hours of the LSD.

(2) The request may be oral or in writing to the Executive Director of the LSD and must reasonably identify the record wanted.

(3) The records may be inspected in appropriate accommodations within the State Capitol as identified by the Executive Director.

(4) Copies of material will be made and distributed at a cost-reimbursable rate. Requests for copying that involve excessive staff time may be referred to the Executive Director. The person making a request may be required to copy the records in the offices of the Legislative Services Division.

C. The following records are not available for public inspection and copying:

(1) Personnel records, except general employment information, such as dates and duration of employment, title of position, and salary.

(2) Prior to bid opening, information that would give advantage to any person bidding on services or other contracts sought by the committee.

(3) Material prepared in anticipation of litigation that would not be available to a party in litigation with the committee under the Montana Rules of Civil Procedure on pretrial discovery.

(4) Prior to any testing period, materials used to test job applicants if disclosure would compromise the fairness or objectivity of the testing process.

(5) Proprietary information, including computer programs, which is entrusted to the committee under exclusive contract.

(6) Any other information that the Executive Director of the LSD determines to be not available because the demands of individual privacy clearly exceed the merits of public disclosure.

XII. EQUIPMENT

Legislative Services Division equipment, including but not limited to telephones, computers, software, and copying and fax machines, is primarily for the use of LSD staff and may be made available to committee members for committee business. Use of LSD equipment at any time may not interfere with the staff's need for and use of the equipment. Any use of LSD equipment must be for legislative business only.

**RULES, PROCEDURES, AND GUIDELINES FOR
LEGISLATIVE INTERIM COMMITTEES AND ACTIVITIES**

XIII. COMPLETION OF INTERIM COMMITTEE WORK

A. September 15 prior to a regular legislative session is the guideline date for completing interim committee work.

B. Completing interim committee work means that the committee:

(1) adopts findings, conclusions, and recommendations, if any, with respect to an interim study assigned to it by bill, by the Legislative Council, or under its own authority;

(2) if a final report is prepared, approves a draft of the report, as prepared by the committee's staff;

(3) approves for introduction in the next legislative session all draft legislation that is prepared by the committee's staff on behalf of the committee in executing its duties under 5-5-215(2), MCA;

(4) assigns a member of the committee, preferably an unopposed or holdover legislator, as the sponsor of legislation described in XIII(B)(3), above. An interim committee may assign a member who is up for election to sponsor the legislation upon reelection to the body or, in special circumstances and with the consent of the legislator requested, may request a legislator who is not a member of the committee to sponsor committee legislation;

(5) submits for LSD drafting purposes any request for legislation made on behalf of an entity described in and for which the committee has monitoring responsibility under 5-5-215(1)(c), MCA.

(6) completes all other duties and responsibilities assigned to a committee under Title 5, chapter 5, MCA, or elsewhere in the MCA, unless another date is specifically provided by law or in case of exigency.

XIV. COMMITTEE REVIEW OF AGENCY-PROPOSED LEGISLATION

A. Mid-April through mid-June of each even-numbered year is the guideline for receipt by interim committees of descriptions of legislation that may be requested by executive branch agencies or other entities. For agency-proposed legislation, the committees must follow the guidelines established in section XIII(B)(5).

B. For the purposes of reviewing the descriptions of proposed legislation in anticipation of acting as the "requestor" of the legislation, the completed EPP form as required by the OBPP is the information to be submitted to interim committees. An entity not required to submit the EPP form shall submit equivalent information.

**RULES, PROCEDURES, AND GUIDELINES FOR
LEGISLATIVE INTERIM COMMITTEES AND ACTIVITIES**

XV. EDUCATING INTERESTED PARTIES

A. Interim committees should educate interested parties about legislative processes, particularly those processes involving preparation of agency-requested legislation, interim committee review, and preintroduction of bills, including deadlines and target dates.

B. For the purposes of these guidelines, "interested parties" include: legislators; the governor and the director of the governor's Office of Budget and Program Planning; agency directors and their respective chief legal counsels; statewide elected officials and their respective chief legal counsels; boards, commissions, and similar entities that may request legislation be prepared on their behalf (e.g., FWP Commission or Board of Education); the Montana University System (including the Regents, Commissioner's Office, and Presidents' and Chancellors' offices of the respective units); and any other entity or individual who may have a formal interest in legislative processes.

C. To promote efficiency and consistency, the basic processes, timelines, etc. apply uniformly to all interim committees, executive agencies, and entities assigned to executive agencies, statewide elected officials, and the university system.

January 16, 2004 version: C12196 4029lena.

June 26, 2009 version: C10429 9180sfna.

March 2, 2010 version: C10070 0067sfna

December 7, 2011 version: C10206 2110sfna

May 5, 2012 version: C10429 2171sfnb.

May 29, 2019 version: C10106 9151slnb.docx

Montana Constitution -- Article X -- Education and Public Lands

Section 1. Educational goals and duties. (1) It is the goal of the people to establish a system of education which will develop the full educational potential of each person. Equality of educational opportunity is guaranteed to each person of the state.

(2) The state recognizes the distinct and unique cultural heritage of the American Indians and is committed in its educational goals to the preservation of their cultural integrity.

(3) The legislature shall provide a basic system of free quality public elementary and secondary schools. The legislature may provide such other educational institutions, public libraries, and educational programs as it deems desirable. It shall fund and distribute in an equitable manner to the school districts the state's share of the cost of the basic elementary and secondary school system.

Section 2. Public school fund. The public school fund of the state shall consist of:

- (1) Proceeds from the school lands which have been or may hereafter be granted by the United States,
- (2) Lands granted in lieu thereof,
- (3) Lands given or granted by any person or corporation under any law or grant of the United States,
- (4) All other grants of land or money made from the United States for general educational purposes or without special purpose,
- (5) All interests in estates that escheat to the state,
- (6) All unclaimed shares and dividends of any corporation incorporated in the state,
- (7) All other grants, gifts, devises or bequests made to the state for general educational purposes.

Section 3. Public school fund inviolate. The public school fund shall forever remain inviolate, guaranteed by the state against loss or diversion.

Section 4. Board of land commissioners. The governor, superintendent of public instruction, auditor, secretary of state, and attorney general constitute the board of land commissioners. It has the authority to direct, control, lease, exchange, and sell school lands and lands which have been or may be granted for the support and benefit of the various state educational institutions, under such regulations and restrictions as may be provided by law.

Section 5. Public school fund revenue. (1) Ninety-five percent of all the interest received on the public school fund and ninety-five percent of all rent received from the leasing of school lands and all other income from the public school fund shall be equitably apportioned annually to public elementary and secondary school districts as provided by law.

(2) The remaining five percent of all interest received on the public school fund, and the remaining five percent of all rent received from the leasing of school lands and all other income from the public school fund shall annually be added to the public school fund and become and forever remain an inseparable and inviolable part thereof.

Section 6. Aid prohibited to sectarian schools. (1) The legislature, counties, cities, towns, school districts, and public corporations shall not make any direct or indirect appropriation or payment from any public fund or monies, or any grant of lands or other property for any sectarian purpose or to aid any church, school, academy, seminary, college, university, or other literary or scientific institution, controlled in whole or in part by any church, sect, or denomination.

(2) This section shall not apply to funds from federal sources provided to the state for the express purpose of distribution to non-public education.

Section 7. Nondiscrimination in education. No religious or partisan test or qualification shall be required of any teacher or student as a condition of admission into any public educational institution. Attendance shall not be required at any religious service. No sectarian tenets shall be advocated in any public educational institution of the state. No person shall be refused admission to any public educational institution on account of sex, race, creed, religion, political beliefs, or national origin.

Section 8. School district trustees. The supervision and control of schools in each school district shall be vested in a board of trustees to be elected as provided by law.

Section 9. Boards of education. (1) There is a state board of education composed of the board of regents of higher education and the board of public education. It is responsible for long-range planning, and for coordinating and evaluating policies and programs for the state's educational systems. It shall submit unified budget requests. A tie vote at any meeting may be broken by the governor, who is an ex officio member of each component board.

(2) (a) The government and control of the Montana university system is vested in a board of regents of higher education which shall have full power, responsibility, and authority to supervise, coordinate, manage and control the Montana university system and shall supervise and coordinate other public educational institutions assigned by law.

(b) The board consists of seven members appointed by the governor, and confirmed by the senate, to overlapping terms, as provided by law. The governor and superintendent of public instruction are ex officio non-voting members of the board.

(c) The board shall appoint a commissioner of higher education and prescribe his term and duties.

(d) The funds and appropriations under the control of the board of regents are subject to the same audit provisions as are all other state funds.

(3) (a) There is a board of public education to exercise general supervision over the public school system and such other public educational institutions as may be assigned by law. Other duties of the board shall be provided by law.

(b) The board consists of seven members appointed by the governor, and confirmed by the senate, to overlapping terms as provided by law. The governor, commissioner of higher education and state superintendent of public instruction shall be ex officio non-voting members of the board.

Section 10. State university funds. The funds of the Montana university system and of all other state institutions of learning, from whatever source accruing, shall forever remain inviolate and sacred to the purpose for which they were dedicated. The various funds shall be respectively invested under such regulations as may be provided by law, and shall be guaranteed by the state against loss or diversion. The interest from such invested funds, together with the rent from leased lands or properties, shall be devoted to the maintenance and perpetuation of the respective institutions.

Section 11. Public land trust, disposition. (1) All lands of the state that have been or may be granted by congress, or acquired by gift or grant or devise from any person or corporation, shall be public lands of the state. They shall be held in trust for the people, to be disposed of as hereafter provided, for the respective purposes for which they have been or may be granted, donated or devised.

(2) No such land or any estate or interest therein shall ever be disposed of except in pursuance of general laws providing for such disposition, or until the full market value of the estate or interest disposed of, to be ascertained in such manner as may be provided by law, has been paid or safely secured to the state.

(3) No land which the state holds by grant from the United States which prescribes the manner of disposal and minimum price shall be disposed of except in the manner and for at least the price prescribed without the consent of the United States.

(4) All public land shall be classified by the board of land commissioners in a manner provided by law. Any public land may be exchanged for other land, public or private, which is equal in value and, as closely as possible, equal in area.

**Education Interim Committee
2019-2020 Interim**

Summary of Statutory Duties and Proposed Work Plan

Prepared by Pad McCracken, Research Analyst
Legislative Services Division, June 2019

This document is an introduction to the Education Interim Committee (EDIC) and a proposed work plan which, as adopted by the committee with directions to staff, will help to guide the committee's work for the next 15 months.

Included in this work plan is discussion of:

- EDIC's statutory duties;
- EDIC's interim study assignment;
- Additional topics within EDIC's subject area jurisdiction;
- Administrative rule review; and
- EDIC's budget, proposed meeting schedule and meeting outline.

EDIC'S STATUTORY DUTIES

I. A number of statutory duties are common to all interim committees.

5-5-215. Duties of interim committees. (1) Each interim committee shall:

- (a) review administrative rules within its jurisdiction;
- (b) subject to 5-5-217(3), conduct interim studies as assigned;
- (c) monitor the operation of assigned executive branch agencies with specific attention to the following:
 - (i) identification of issues likely to require future legislative attention;
 - (ii) opportunities to improve existing law through the analysis of problems experienced with the application of the law by an agency; and
 - (iii) experiences of the state's citizens with the operation of an agency that may be amenable to improvement through legislative action;
- (d) review if requested by any member of the interim committee, the statutorily established advisory councils and required reports of assigned agencies to make recommendations to the next legislature on retention or elimination of any advisory council or required reports pursuant to 5-11-210;
- (e) review proposed legislation of assigned agencies or entities as provided in the joint legislative rules; and
- (f) 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.

(2) Each interim committee shall 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.

(3) The legislative services division shall keep accurate records of the activities and proceedings of each interim committee.

It is up to the committee to determine how it wants to execute its "agency monitoring" responsibilities. Previous ELG and EDIC committees have scheduled updates and conversations with the various agencies either at every meeting, on a rotating basis, or ad hoc.

II. EDIC's Enabling Statute¹

5-5-224. Education interim committee. (1) The education interim committee has administrative rule review, draft legislation review, program evaluation, and monitoring functions for the following executive branch agencies and the entities attached to agencies for administrative purposes:

- (a) state board of education;
- (b) board of public education²;
- (c) board of regents of higher education³; and
- (d) office of public instruction.

(2) The committee shall:

(a) provide information to the board of regents in the following areas:

- (i) annual budget allocations;
- (ii) annual goal statement development;
- (iii) long-range planning;
- (iv) outcome assessment programs; and

(v) any other area that the committee considers to have significant educational or fiscal policy impact;

(b) periodically review the success or failure of the university system in meeting its annual goals and long-range plans;

(c) periodically review the results of outcome assessment programs;

(d) develop mechanisms to ensure strict accountability of the revenue and expenditures of the university system;

(e) 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;

(f) act as a liaison between both the legislative and executive branches and the board of regents; and

(g) encourage cooperation between the legislative and executive branches and the board of regents.

The entities attached to the State Board of Education (which is the Board of Public Education

¹ 5-5-224 was amended in SB 151 (Brown, 2017) to remove all references to local government, replacing the former Education and Local Government Interim Committee (ELG) with two committees, one for education and one for local government. It may be worth revisiting this section and considering whether the language reflects the committee's preferences and practice.

² 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 former ELG review its rules. That may continue to be the case. In addition, 20-7-101, MCA, requires that the Board submit proposed accreditation standards to the committee. That requirement is discussed in Part III of this paper (Section 20-7-101, MCA, beginning on p. 3).

³ 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.

and the Board of Regents of Higher Education combined) are:

- the Montana Historical Society;
- the Montana State Library; and
- the Montana Arts Council.

III. Accreditation Standards Adopted by Board of Public Education

If new standards or changes to existing accreditation standards for public schools are proposed, the Board of Public Education must submit the proposals, along with economic impact statements to the EDIC for review. Only if EDIC determines that the costs incurred by school districts in implementing the new standards will be "insubstantial" may the Board implement the standards right away. Otherwise, the Board must wait and seek adequate funding for the proposed standards from the next Legislature prior to implementation.

20-7-101. Standards of accreditation. (1) Standards of accreditation for all schools must be adopted by the board of public education upon the recommendations of the superintendent of public instruction. The superintendent shall develop recommendations in accordance with subsection (2). The recommendations presented to the board must include an economic impact statement, as described in 2-4-405, prepared in consultation with the negotiated rulemaking committee under subsection (2).

(2) The accreditation standards recommended by the superintendent of public instruction must be developed through the negotiated rulemaking process under Title 2, chapter 5, part 1. The superintendent may form a negotiated rulemaking committee for accreditation standards to consider multiple proposals. The negotiated rulemaking committee may not exist for longer than 2 years. The committee must represent the diverse circumstances of schools of all sizes across the state and must include representatives from the following groups:

- (a) school district trustees;
- (b) school administrators;
- (c) teachers;
- (d) school business officials;
- (e) parents; and
- (f) taxpayers.

(3) Prior to adoption or amendment of any accreditation standard, the board shall submit each proposal, including the economic impact statement required under subsection (1), to the education interim committee for review at least 1 month in advance of a scheduled committee meeting.

(4) Unless the expenditures by school districts required under the proposal are determined by the education and local government interim committee to be insubstantial expenditures that can be readily absorbed into the budgets of existing district programs, 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.

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

IV. Sections 20-9-161, MCA: School District Budget Amendment Reporting

Section 20-9-161 requires school districts to report to EDIC and to the Board of Public Education any budget amendment adopted to address an unforeseen need affecting the educational functions of the district if the budget amendment, in combination with other budget amendments within the same school fiscal year, exceeds 10% of the district's adopted general fund budget.

20-9-161. Definition of budget amendment for budgeting purposes. As used in this title, unless the context clearly indicates otherwise, the term "budget amendment" for the purpose of school budgeting means an amendment to an adopted budget of the district for the following reasons:

(1) an increase in the enrollment of an elementary or high school district that is beyond what could reasonably have been anticipated at the time of the adoption of the budget for the current school fiscal year whenever, because of the enrollment increase, the district's budget for any or all of the regularly budgeted funds does not provide sufficient financing to properly maintain and support the district for the entire current school fiscal year;

(2) the destruction or impairment of any school property necessary to the maintenance of the school, by fire, flood, storm, riot, insurrection, or act of God, to an extent rendering school property unfit for its present school use;

(3) a judgment for damages against the district issued by a court after the adoption of the budget for the current year;

(4) an enactment of legislation after the adoption of the budget for the current year that imposes an additional financial obligation on the district;

(5) the receipt of:

(a) a settlement of taxes protested in a prior school fiscal year;

(b) taxes from a prior school fiscal year as the result of a tax audit by the department of revenue or its agents;

(c) delinquent taxes from a prior school fiscal year; and

(d) a determination by the trustees that it is necessary to expend all or a portion of the taxes received under subsection (5)(a), (5)(b), or (5)(c) for a project or projects that were deferred from a previous budget of the district; or

(6) any other unforeseen need of the district that cannot be postponed until the next school year without dire consequences affecting:

(a) the safety of the students and district employees; or

(b) the educational functions of the district. Any budget amendment adopted pursuant to this subsection (6)(b) that in combination with other budget amendments within the same school fiscal year exceeds 10% of the district's adopted general fund budget must be reported by the school district to the education interim committee and the board of public education with an explanation of why the budget amendment is necessary.

V. State Agency Reports on Heritage Properties

Sections 22-3-421 through 22-3-424, MCA require state agencies to regularly report to the Preservation Review Board on the status and stewardship of each agency's heritage properties.

The State Historic Preservation Officer (SHPO) is required to provide the information presented to the Preservation Review Board, along with any recommendations, to "an appropriate interim committee". The Preservation Review Board is part of the Montana Historical Society, which is an agency allocated to the State Board of Education for administrative purposes (2-15-1511, MCA). Because EDIC is statutorily required to monitor the activities of the State Board of Education, it is the appropriate interim committee to receive the SHPO's report. The committee typically receives this report at its final meeting.

VI. Review of Statutorily Established Advisory Councils and Reports

Senate Bill No. 8 (Facey, 2017) amended 5-5-215 to remove the requirement⁴ that interim committees review statutorily established advisory councils and required reports each interim and made the review discretionary. If any member of the committee requests that EDIC review an advisory council or required report, the committee must do so.

Advisory councils relevant to EDIC's subject area jurisdiction and the entities to which they are attached are as follows:

1. Fire Services Training Advisory Council (2-15-1519, MCA); *Board of Regents*
2. Certification Standards and Practices Advisory Council (2-15-1522, MCA); *Board of Public Education*
3. ~~Governor's Postsecondary Scholarship Advisory Council (2-15-1524, MCA); *Office of the Commissioner of Higher Education* [repealed by SB 60 (Salomon, 2019) which revised financial aid laws and was requested by last interim's EDIC]~~
4. K-12 Data Task Force (20-7-105) *Office of Public Instruction*

In addition, section 2-15-122, MCA, allows the Governor or a department head to create advisory councils. Information about councils created under this authority must be filed with the Secretary of State's office.

Reports relevant to EDIC that are required by statute include the following:

1. Carl D. Perkins Career and Technical Education Improvement Act, 2006 -- Legislative Report (20-7-330, MCA); *Board of Regents*
2. Biennial Report to the Governor and the Legislature (22-3-107, MCA); *Montana Historical Society*
3. At-Risk Students Report (20-9-328, MCA); *Office of Public Instruction* on or before September 15 of even-numbered years

⁴ This requirement was added to 5-5-215 in 2011 through HB 142 (Sands) and the 2011-12 ELG extensively reviewed all of the advisory councils and required reports, recommending the elimination of several. Subsequent interim committees have devoted less time to this requirement.

4. American Indian Achievement Gap Report (20-9-330, MCA); *Office of Public Instruction* on or before September 15 of even-numbered years
5. Education Commission of the States (20-2-501, MCA); *Education Commission of the States*
6. Western Regional Higher Education Compact (20-25-801, MCA); *Western Interstate Commission for Higher Education*
7. State Agency Heritage Properties (22-3-421 through 22-3-424, MCA); *State Historic Preservation Office*

ADMINISTRATIVE RULE REVIEW

As is noted in the discussion of EDIC's specific statutory duties and related footnotes (see page 2), the committee has varied degrees of administrative rule review responsibility 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 EDIC's legal staff to EDIC'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.

EDIC legal staff will lead the committee's administrative rule review activities.

INTERIM STUDY ASSIGNMENT House Joint Resolution No. 56 (HJ 56)

Legislative Council assigned HJ 56 to EDIC at the Council's May 29, 2019, meeting.

HJ 56 Study of Bullying

Rank in post-session legislator poll: 27/27

This study resolution came about after the failure of HB 199 (Usher) in House Judiciary. HB 199 proposed to amend 20-5-209, MCA, which prohibits bullying in public schools, by adding criminal penalties and seemed to be motivated by a desire to further deter bullying by putting

more punitive "teeth" in Montana's anti-bullying law. Opponents of HB 199 were concerned about criminalizing bullying due to the costs and burdens that might put on the criminal justice system as well as the possible increase in youth incarceration rates. One opponent expressed concern about placing too much emphasis on punishing the bully rather than attending to victims' needs and contributing to the "school-to-prison pipeline." Another suggested a study to look at the problem of bullying from "the broadest perspective possible." In closing, Rep. Usher stated that one of the motivations was to ensure that bullying was stopped prior to a victim becoming desperate and contemplating suicide. House Judiciary tabled HB 199 and Rep. Usher pursued an interim study resolution, HJ 56.

Several opponents to HB 199 were proponents for HJ 56. The sponsor and proponents emphasized a more holistic examination of bullying that moved beyond solely a criminal justice approach. One proponent stated this was "an ounce-of-prevention-beats-a-pound-of-cure issue" and appreciated the study resolution's emphasis on ensuring the safety and recovery of victims of bullying. A lobbyist for Disability Rights Montana supported the study resolution and requested that the effort include a perspective on how bullying impacts students with disabilities. Another proponent proclaimed HJ 56 "a study whose time has come."

The committee might start by reviewing Montana's statute and rule regarding bullying, as well as examples of school district bullying policies. The committee can seek longitudinal data from OPI and school districts to consider the problem of bullying and how it has changed over time. Staff can gather information and arrange for subject matter experts to describe current best practices in preventing bullying behavior, including promising statewide policy enactments in other states. Staff can also assemble various panels to discuss with the committee ideas for strengthening statewide policy aimed at reducing bullying and the kinds of anti-bullying programs that currently exist in Montana schools. These panels could include teachers, students, administrators, parents, school resource officers, youth court representatives, school counselors and psychologists, and other mental health professionals.

This study could also be a part of a broader look at school and student safety and student mental health if the committee desires.

ADDITIONAL TOPICS WITHIN EDIC'S SUBJECT AREA JURISDICTION

In addition to monitoring the activities of the agencies and entities that are charged with carrying out the state's K-12 and higher education programs, the committee may wish to examine specific education policy areas. Staff will provide a separate document listing some possibilities. The work plan envisions significant time for member-initiated education policy studies, depending on other committee work and availability of staff resources.

It is vital to remember that while the interim spans 14-15 working months, the capacity of any interim committee is finite and limited by the committee's budget and meeting time, as well as staff workload. As the committee discusses additional topics, the guiding principle will be the need to communicate clearly what topics are priorities and to what degree the committee wishes to explore these topics. Realistically the committee can cover a few topics at great depth or a number of topics in a more cursory manner; it is not realistic to tackle many topics deeply.

COMMITTEE BUDGET AND PROPOSED MEETING SCHEDULE

EDIC has approximately \$40,000 in its budget for the 2021 Biennium. This will accommodate six meetings of the full committee, with the possibility of several 2-day meetings as needed, and leave enough money remaining for the 2021-2022 EDIC to hold an initial meeting in June 2021. The following is a proposed committee meeting schedule. Meetings at the beginning or end of the week have generally been committee members' preference, but adjustments can be made if members prefer other days of the week.

1. Monday, **June 24, 2019** (the costs of this meeting will be paid out of remaining funds of the 2017-2018 EDIC)
2. Monday-Tuesday, **September 9-10, 2019**
3. Thursday-Friday, **November 21-22, 2019** (at MSU - Bozeman, with a joint meeting with the Board of Regents)
4. Thursday, **January 16, 2020** (during "Legislative Week"?)
5. Thursday-Friday, **March 19-20, 2020**
6. Monday-Tuesday, **June 15-16, 2020**
7. Monday, **September 14, 2020**

Cla305 9161pcda.



A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF BULLYING; AND REQUIRING THAT THE FINAL RESULTS BE REPORTED TO THE 67TH LEGISLATURE.

WHEREAS, the Legislature enacted The Bully-Free Montana Act in 2015; and

WHEREAS, bullying remains a significant problem; and

WHEREAS, modern technology and social media can exacerbate the harm done through bullying.

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:

- (1) examine the problem of bullying in Montana schools;
- (2) review policies in other states that have proven effective in addressing bullying;
- (3) analyze the impacts of the Bully-Free Montana Act;
- (4) determine whether changes to the Bully-Free Montana Act would be beneficial in addressing the problem of bullying; and
- (5) consider policies that:
 - (a) prevent bullying behavior from developing;
 - (b) ensure protection from further bullying for victims; and
 - (c) promote recovery for victims.

BE IT FURTHER RESOLVED, that the study should seek out the assistance and involvement of the Office of Public Instruction, the Board of Public Education, the Department of Public Health and Human Services, school counselors and psychologists, school resource officers, representatives from the youth court system, and appropriate K-12 education stakeholders.

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, 2020.

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 67th Legislature.

- END -

I hereby certify that the within joint resolution,
HJ 0056, originated in the House.

Speaker of the House

Signed this _____ day
of _____, 2019.

Chief Clerk of the House

President of the Senate

Signed this _____ day
of _____, 2019.

HOUSE JOINT RESOLUTION NO. 56

INTRODUCED BY B. USHER

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF BULLYING; AND REQUIRING THAT THE FINAL RESULTS BE REPORTED TO THE 67TH LEGISLATURE.

20-5-207. Short title. Sections 20-5-207 through 20-5-210 may be cited as the "Bully-Free Montana Act".

20-5-208. Definition. (1) "Bullying" means any harassment, intimidation, hazing, or threatening, insulting, or demeaning gesture or physical contact, including any intentional written, verbal, or electronic communication or threat directed against a student that is persistent, severe, or repeated and that:

(a) causes a student physical harm, damages a student's property, or places a student in reasonable fear of harm to the student or the student's property;

(b) creates a hostile environment by interfering with or denying a student's access to an educational opportunity or benefit; or

(c) substantially and materially disrupts the orderly operation of a school.

(2) The term includes retaliation against a victim or witness who reports information about an act of bullying and includes acts of hazing associated with athletics or school-sponsored organizations or groups.

20-5-209. Bullying of student prohibited. Bullying of a student enrolled in a public K-12 school by another student or an employee is prohibited.

20-5-210. Enforcement — exhaustion of administrative remedies. (1) A person alleging a violation of 20-5-207 through 20-5-210 may seek redress under any available law after exhausting all administrative remedies.

(2) Nothing in this section precludes a person from contacting law enforcement in relation to incidents of bullying at any point in time.

Possible topics for 2019-2020 Education Interim Committee

for committee discussion, compiled by Pad McCracken, Committee Staff, June 2019

General and PK-20+

EDIC statutory duties (agency monitoring, rule review, advisory councils and reports review; these will be discussed in the work plan)

Updates from LFD/LFC (quarterly budget; LFC subcommittee study of education topics per [HB 657](#))

Review [2013-14 Shared Policy Goals](#) (K-12, MUS, K-20)

NCSL "[No Time To Lose](#)" state education visioning recommendation

Early Education/Pre-K

Monitor changes with end of STARS Preschool Pilot Program and Preschool Development Grant

Updates from DPHHS on Preschool Development Grant—Birth through Five (PDG B-5) Project "Strengthening Montana's Early Childhood System"

Presentations on recent research and state policy considerations

K-12

K-12 funding (basic refresher; property taxes; equity; tuition; facilities; etc.)

Federal issues (ESSA implementation; report cards; funding and program implications; school improvement plans)

Recruitment and retention; teacher survey; monitor [HB 211](#) implementation

Follow up on HJ 1 (2017) and special needs (G&T; LFC [HB 657](#) study of sp ed funding)

Career and Technical Education (work-based learning; [HB 387](#) implementation; Perkins V State Plan)

School safety and student health issues:

- Bullying ([HJ 56](#) study of bullying)
- Suicide prevention and mental health generally
- School safety and security

Instructional innovation (digital and online learning; MT Digital Academy; personalized/competency-based models; [HB 351](#) implementation)

School Food Programs (lunch/breakfast; farm-to-school)

School and Student Data (access/privacy; using GEMS, OPI website, school district maps; etc.)

Dual Enrollment and "1, 2, Free" program impacts

Postsecondary (note that [HB 754](#) created a commission to review the mid-90s restructuring of the 2-year postsecondary education system; Rep. Vinton is serving; Pad and Laura will be staffing)

Basics of postsecondary funding (MUS, CCs, Tribal Colleges)

University research; MREDI follow-up

Costs, tuition, and student loan debt

DRAFT Outline of Work Plan and Meeting Dates (proposed) for Education Interim Committee 2019-2020 (for discussion at June 2019 meeting)

| <p>June 24, 2019 Organizational meeting</p> | <p>September 2019 (2) (Mon-Tues Sept 9-10)</p> | <p>November 2019 (2) (Thurs-Fri Nov 21-22 at MSU-Bozeman?)</p> | <p>January 2020 (Thurs Jan 16 during Legislative Week?)</p> | <p>March 2020 (2) (Thu-Fri March 19-20)</p> | <p>June 2020 (2) (Mon-Tues June 15-16)</p> | <p>September 2020 (Mon Sept 14)</p> |
|--|--|---|---|---|--|--|
| <p>Elect officers</p> <p>Review statutory duties</p> <p>Admin Rule review</p> <p>Agency monitoring: How does the committee want to address its agency monitoring duties for:</p> <ul style="list-style-type: none"> • OPI • BPE • REGENTS/MUS • MSL • MHS • MAC <p>HJ 56 How does the committee want to address this study?</p> <p>Receive stakeholder and public comment on work plan</p> <p>Establish work plan and identify topics for committee exploration</p> | <p>Admin Rule review</p> <p>Agency monitoring: <u>OPI</u></p> <ul style="list-style-type: none"> • TBD <p><u>MUS</u></p> <ul style="list-style-type: none"> • TBD <p><u>MSL</u></p> <ul style="list-style-type: none"> • Overview/updates <p>LFD/LFC updates and input on HB 715</p> <p>HJ 56</p> <ul style="list-style-type: none"> • TBD <p>Member-identified and emerging issues TBD</p> | <p>Admin Rule review</p> <p>Agency monitoring: <u>OPI</u></p> <ul style="list-style-type: none"> • Follow-up and new topics TBD <p><u>MUS—joint with Regents</u></p> <ul style="list-style-type: none"> • Follow-up and new topics TBD <p><u>MHS</u></p> <ul style="list-style-type: none"> • Overview/updates <p>HJ 56</p> <ul style="list-style-type: none"> • TBD <p>Member-identified and emerging issues TBD</p> <p>Any visits to Bozeman-area education sites?</p> | <p>Admin Rule review</p> <p>Agency monitoring: <u>OPI</u></p> <ul style="list-style-type: none"> • Follow-up and new topics TBD <p><u>MUS</u></p> <ul style="list-style-type: none"> • Follow-up and new topics TBD <p><u>MHS</u></p> <ul style="list-style-type: none"> • Overview/updates <p>HJ 56</p> <ul style="list-style-type: none"> • TBD <p>Member-identified and emerging issues TBD</p> | <p>Admin Rule review</p> <p>Agency monitoring: <u>OPI</u></p> <ul style="list-style-type: none"> • Follow-up and new topics TBD <p><u>MUS</u></p> <ul style="list-style-type: none"> • Follow-up and new topics TBD <p><u>MAC</u></p> <ul style="list-style-type: none"> • Overview/updates <p>H J56</p> <ul style="list-style-type: none"> • Follow up • Preliminary discussion of any findings and recommendations, committee reports, and bill drafts <p>Member-identified and emerging issues TBD</p> <p>Preliminary discussion of any findings and recommendations, committee reports, and bill drafts</p> | <p>Admin Rule review</p> <p>Agency monitoring: <u>OPI</u></p> <ul style="list-style-type: none"> • Follow-up and new topics TBD <p><u>MUS</u></p> <ul style="list-style-type: none"> • Follow-up and new topics TBD <p>Review agency/entity legislation</p> <p>HJ 56</p> <ul style="list-style-type: none"> • Follow up • Continued discussion of any findings and recommendations, committee reports, and bill drafts <p>Member-identified and emerging issues TBD</p> <p>Continued discussion of any findings and recommendations, committee reports, and bill drafts</p> | <p>Admin Rule review</p> <p>Agency monitoring: <u>OPI</u>—reports</p> <ul style="list-style-type: none"> • American Indian Achievement • At-risk student • Military Children • Follow-up and new topics TBD <p><u>MUS</u></p> <ul style="list-style-type: none"> • Follow-up and new topics TBD <p><u>MHS</u></p> <ul style="list-style-type: none"> • SHPO report <p>HJ 56</p> <ul style="list-style-type: none"> • Public comment, review, revise any findings and recommendations, committee reports, and bill drafts <p>Member-identified and emerging issues TBD</p> <p>Public comment, review, revise any findings and recommendations, committee reports, and bill drafts</p> |