



## Education and Local Government Interim Committee

### 61st Montana Legislature

#### SENATE MEMBERS

KELLY GEBHARDT--Vice Chair  
GARY BRANAE  
KIM GILLAN  
BOB HAWKS  
DANIEL MCGEE  
JIM PETERSON

#### HOUSE MEMBERS

WANDA GRINDE--Chair  
ELSIE ARNTZEN  
RUSSELL BEAN  
JOHN FLEMING  
BOB LAKE  
EDITH MCCLAFFERTY

#### COMMITTEE STAFF

LEANNE KURTZ, Research Analyst  
JEREMY GERSOVITZ, Staff Attorney  
CLAUDIA (CJ) JOHNSON, Secretary

# MINUTES

August 16, 2010  
Room 137

Capitol Bldg  
Helena, MT

Please note: These minutes provide abbreviated information about committee discussion, public testimony, action taken, and other activities. The minutes are accompanied by an audio recording. For each action listed, the minutes indicate the approximate amount of time in hours, minutes, and seconds that has elapsed since the start of the meeting. This time may be used to locate the activity on the audio recording.

An electronic copy of these minutes and the audio recording may be accessed from the Legislative Branch home page at <http://leg.mt.gov>. On the left-side column of the home page, select *Committees*, then *Interim*, and then the appropriate committee.

To view the minutes, locate the meeting date and click on minutes. To hear the audio recording, click on the Real Player icon. Note: You must have Real Player to listen to the audio recording.

#### **COMMITTEE MEMBERS PRESENT**

REP. WANDA GRINDE, Chair  
SEN. KELLY GEBHARDT, Vice Chair  
SEN. GARY BRANAE  
SEN. KIM GILLAN  
SEN. BOB HAWKS  
SEN. DANIEL MCGEE  
SEN. JIM PETERSON  
REP. ELSIE ARNTZEN  
REP. RUSSELL BEAN  
REP. JOHN FLEMING  
REP. BOB LAKE  
REP. EDITH MCCLAFFERTY

#### **STAFF PRESENT**

LEANNE KURTZ, Research Analyst  
JEREMY GERSOVITZ, Staff Attorney  
CLAUDIA (CJ) JOHNSON, Secretary

## **Monday, August 16, 2010**

### **Visitors/Agenda**

Visitors' list, Attachment #1.  
Agenda, Attachment #2.

### **COMMITTEE ACTION**

The Education and Local Government Interim Committee approved:

- committee minutes from June 10, 2010 meeting.
- subcommittee minutes of Legislative Resolutions from June 9, 2010.
- HJR 32 with amendment.
- Bill draft proposal, LC9995.
- Bill draft proposal, LC9994 w/ amendment, set 2.

### **CALL TO ORDER AND ROLL CALL**

00:00:15 Rep. Grinde called the Education and Local Government Interim Committee to order at 9:30 a.m. The secretary called the roll. Attachment #3.

#### **Motion**

00:01:34 The motion was made to approve the ELG minutes dated June 10, 2010. The motion **passed**.

#### **Motion**

00:01:49 Rep. Lake made a motion to approve the ELG subcommittee minutes of Legislative Resolutions, dated June 9, 2010. The motion **passed**.

#### **Review agenda**

- **Leanne Kurtz, ELG Staff**

00:02:23 Ms. Kurtz reviewed the agenda. (Attachment #2) A handout was discussed regarding WUI boundaries for Montana by Bob Harrington, Department of Natural Resources and Conservation (DNRC) . **(Exhibit 1)**

#### **Wildland-urban interface: Department of Labor and Industry rules; Department of Natural Resources and Conservation mapping**

- **Review background and practical application - Leanne Kurtz**
- **DLI rulemaking - Dave Cook, Building Standards Bureau Chief, DLI**
- **DNRC WUI mapping - Ted Mead, Fire and Aviation Management Bureau Chief, DNRC**

00:07:14 Ms. Kurtz distributed a handout that gives an update of key points regarding Wildland Urban Interface (WUI). **(Exhibit 2)**

00:17:48 Dave Cook discussed rulemaking for construction techniques that is on hold per request of the ELG committee. He gave an update of SB 51, its process and efforts of the department meeting with the stakeholders. He said the department

has moved forward with the MEPA process, but the final version has not been filed at the committee's request.

### **ELG comments and questions**

- 00:20:53 Rep. Lake talked about the department developing building codes to be placed in "best practices" instead of being in the department's codes.
- 00:26:32 Mr. Mead talked about the role that DNRC is taking regarding the WUI, and how they have worked with the local communities. He distributed handouts of maps showing updates of the WUI, and explained each one:
- Community Wildfire Protection Plans. **(Exhibit 3)**
  - Wildland Urban Interface. **(Exhibit 4)**
  - Montana Wildland Urban Interface. **(Exhibit 5)**
- 00:37:34 The committee and Mr. Mead discussed guidelines and best practices of the WUI map drafted by DNRC and solutions in response to fires. There was discussion about having trigger points when WUI rules change. Ms. Kurtz said the Montana Codes Annotated (MCA), state that counties update the WUI map every five years.

### **Public comment**

- 00:54:55 Susanna Pyron, Florence, said that state and federal lands take a more active part in mitigating fire proof land. She said fires that start on state and federal lands should be considered more important than private land.
- 00:57:50 Susie Fogg, Ravalli County, talked about County Commissioners greatest interest is taking away private property rights.
- 01:02:25 Niki Sardot, Ravalli County, distributed a handout about WUI with suggested language change. **(Exhibit 6)**
- 01:04:22 Ed Greef, Ravalli County, talked about best practices, local control, and protection of private property owners.
- 01:05:17 Richard Van Auken, Teton County Fire Chief, explained why the WUI was started. He said the WUI determines what is urban and what is rural, and it establishes mitigation for grants.
- 01:07:17 Harold Blattie, Executive Director, Montana Association of Counties (MACo), talked about:
- building codes,
  - how counties handle guidelines on an individual basis,
  - land use attorneys on deed restrictions,
  - development of central water storage, and
  - expending resources on protecting people in the WUI.
- 01:13:10 Dustin Stewart, Montana Building Industry Association, talked about construction building code techniques and unintended consequences from SB 51. He stated that SB 51 is not a working solution.

- 01:16:47 The committee members talked about WUI rules being guidelines or regulatory. Mr. Blattie said that he cannot call WUI rules regulatory, because no one can enforce them. He said the guidelines are a list for subdivision developers to go by. Each county has different interpretations, and the reason for need of consistency.
- 01:24:42 Sen. Hawks explained why the implementation of SB 51 was delayed. Ms. Kurtz talked about guidelines for best practices, and said that ELG has oversight in this subject area.
- 02:01:47 Ms. Kurtz gave an overview of DLI rules for construction techniques on fire mitigation. **(Exhibit 7)** She questioned if DLI should re-do the hearing process because of "reasonable necessity".

## **Break**

### **HJR 32 historic preservation study**

- **Review study, presentation of draft findings and recommendations, bill draft - Leanne Kurtz**

- 02:18:40 Ms. Kurtz distributed a summary of HJR 32, which examines the historic preservation in Montana, and what the committee has accomplished this interim. She said the committee needs to approve the study draft to move it forward. **(Exhibit 8)**
- 02:26:11 Ms. Kurtz distributed and explained bill draft LChj32, which requires state agencies and the Montana University System (MUS), to report biannually to the preservation board. **(Exhibit 9)**

## **Public comment**

- 02:28:42 Cher Justio, Historic Preservation, gave an update of the historic preservation that is taking place throughout Montana. She talked about budget constraints and having to confine the responsibilities to the local areas.

## **Motion**

- 02:39:37 Sen. Hawks made the motion to approve HJR 32, and its findings.

## **Discussion**

- 02:40:43 Sen. Hawks asked that the findings be included in the record for the next interim committee.

## **Amendment**

- 02:43:53 Sen. McGee made a motion to amend language on page 3 to read, "may or may not be identified". The motion **passed**.

## **Motion**

- 02:49:10 Sen. Hawks reiterated his motion to approve draft bill HJR32 as amended, and strike paragraph on page 6, ii. The motion **passed**. Sen. Hawks will carry the

bill. Ms. Kurtz will incorporate HJR32 in the final report.

#### **County/school budget timelines**

- **Review bill draft - Jeremy Gersovitz, ELG Legal Staff**
- **Department of Revenue, MACo, and School Administrators**

02:51:39 Mr. Gersovitz talked about the bill draft proposal, LC 9994. **(Exhibit 10)**

#### **Public comment**

02:55:47 Alan Peura, Deputy Director, Department of Revenue (DoR), discussed a spreadsheet he distributed at the last ELG meeting that addressed accountability. He said that DoR supports the bill draft if the committee fixes the timelines.

03:03:41 Mr. Blattie said that the levy dates in the bill draft is for information purposes. He asked the committee to delay any action because of conflict with dates. **(Exhibit 11)**

03:09:59 Marsha Davis, County Superintendent of Schools in Lewis and Clark County, noted that the bill does not reflect the correct dates for setting levies. She said all school district levies should be set for the first Tuesday of September.

03:12:11 Linda Brannon, representing the school business officials, said she supports the bill as drafted.

03:13:58 Dee Opper, finance officer for schools districts, agreed that the date should be the first Tuesday of September.

03:15:17 Bob Vogel, Montana School Board Association, said the DoR did give up some days.

03:16:48 The committee members discussed penalties placed on the districts and DoR, and where the funds from the penalty go. Mr. Peura distributed a handout explaining if DoR doesn't send their information to the counties in a reasonable amount of time, the counties will be allowed that same number of days. **(Exhibit 12)** Mosquito districts and the budget were also discussed when there is a drought.

03:23:12 Mr. Blattie clarified that the language for cities, counties, and special districts, are different than school districts.

#### **Lunch**

04:30:33 Mr. Heiman introduced Robert Stutz, Legal Counsel for the Legislative Services Division (LSD)

#### **Tax Increment Finance (TIF) Districts**

- **Introduction to TIFs - Janet Cornish, Community Development Services of Montana**
- **Department of Revenue role - Michele Crepeau, Department of**

**Revenue**

- **State revenue and school district revenue - Jim Standaert, Legislative Fiscal Division**
- **2009-2010 legislative proposals - Lee Heiman, Legislative Services Division**

04:31:46 Ms. Cornish presented a PowerPoint explaining TIF. She talked about the mechanism and methodology of TIF. **(Exhibit 13)**

04:33:55 Sen. Hawks , Sen. Peterson, and Ms. Cornish, discussed how the tax increments work.

**Rep. Grinde introduce the panel members:**

- **Lee Heiman,**
- **Jim Standaert, and**
- **Michele Crapeau**

04:38:57 Ms. Crapeau gave an overview of TIFs explaining how they determine if the proper steps have been taken in the creation of a TIF.

04:43:37 Mr. Standaert distributed a handout showing the taxable value for TIF year (TY) **(Exhibit 14)** He had a handout that explains the impact of TIF districts on local mills. **(Exhibit 15)**

04:49:56 Mr. Heiman said he has one bill draft from the University System that is not in the TIF. He said the bill as currently introduced does not include the 95 mills.

04:52:24 Rep. McClafferty, Mr. Standaert and Ms. Crapeau discussed the impact of removing the 95 mills.

**Public Comment**

04:55:18 Kevin Nelson, Billings, talked about his lawsuit against the DoR.

05:07:55 Greg Cruger, member of the Billings Downtown Association. explained his involvement in the urban renewal of Billings, and that Montana's Urban Renewal does work.

05:11:22 Alec Hansen, Executive Director of Montana League of Cities and Towns, gave an example how the TIF is working for downtown Butte.

**SJR 2 Community College Districts**

- **Review bill draft - Jeremy Gersovitz;**
- **Ms. Swift, Legal Council, Office of the Commissioner of Higher Education**

05:22:38 Mr. Gersovitz talked about a memo he had written regarding proposed changes of the Community Colleges establishment process. **(Exhibit 16)** He distributed and explained bill draft proposal, LC9995. **(Exhibit 17)**

05:25:31 The committee talked about districts crossing county lines, and the cost to operate Community Colleges.

**Motion**

05:29:39 Sen. McGee made a motion to approve bill draft request LC9995, and incorporate "when districts cross county lines". He also asked that a timeframe be included when a petition is being formed at a certain time of the year when it is past the budgeting cycle for a trigger mechanism.

Ms. Cathy Swift and Dr. Mary Sheehy Moe, Two-Year Colleges, addressed their concerns regarding timelines.

05:35:09 Sen. McGee asked to modify his motion, and withdraw his language that would have included a trigger mechanism.

**Vote**

05:41:04 The motion is to approve bill draft, LC 9995, as a committee bill that will include language "with provision when districts cross county lines". The motion **passed**. Sen. Branae will carry the bill.

**Montana School Board Association AA Caucus**

05:45:19 Jan Cahill, Montana School Board Association, acknowledged three people from the Kalispell School district. Mr. Cahill distributed and explained a handout that addressed the presenters talking points. **(Exhibit 18)**

05:49:10 Deb Shea, Butte School District, discussed best practices in the Butte system. She had a handout of five critical pieces that will insure student achievement for at-risk students. **(Exhibit 19)**

05:54:32 Nancy Parparda, Missoula School Board, distributed and explained a handout called Graduation Matters. **(Exhibit 20)** She talked about the program, how it works, and its actions taken by the students, schools, parents, and the community.

05:56:59 Don Jones, Trustee of the Montana Public School System, talked about schools budgets.

06:11:16 Barbara Brian, Treasury of maintenance of the Montana School Board Association, talked about school properties, school facilities, and the age of the facilities.

06:20:21 Gary Lucin, Trustee from the Bozeman School District, presented the solution side of efficiency and accountability of AA districts. He discussed resources and the challenges that the educators go through to increase cost-saving efficiencies. **(Exhibit 21)**

06:24:15 Steve Irwin, Chair of the Great Falls School Board Association, stated that "we are in the business to provide a foundation".

### **ELG comments and questions**

06:26:29 Rep. Lake talked about signing documents of understanding for higher education (MUS), K-12, K-20, and the cost of education.

06:33:00 The committee discussed levies, and the legislature appropriating funding for schools. Mr. Lucin commented that on October 14, 2010, sitting Legislators and sitting Trustees are meeting to try and understand the funding mechanism.

### **Medical marijuana and local governments/schools: update on Children, Families, Health and Human Services subcommittee activities**

- **Helen Thigpen, ELG Legal Staff**

06:48:30 Ms. Thigpen distributed a handout that offers suggestions regarding medical marijuana for the Child, Families, and Health and Human Services Interim Subcommittee. **(Exhibit 22)**

### **Motion**

06:49:07 Rep. Lake made a motion to extend the time for school levies when the DoR is late putting out notices.

07:06:01 The motion is to approve bill draft proposal, LC9994, so staff can draft possible amendments to extend dates if the department doesn't get their notice out on time. The motion **passed**.

### **Recess**

07:07:10 Rep. Grinde recessed the committee at 5:20 p.m.



## ***Tuesday, August 17***

### **Visitors/Agenda**

Visitors list. Attachment #1

Agenda. Attachment #2

00:06:47 Rep. Grinde called the committee back to order at 8:30 a.m. The secretary called the roll. Attachment #3

00:07:13 Mr. Gersovitz explained amendments for LC9994, set 1, **(Exhibit 1)**, and LC9994, set 2. **(Exhibit 2)**

00:09:47 Rep. McClafferty and Sen. Peterson discussed the amendments.

### **Motion**

00:10:06 Sen. Peterson made a motion to accept LC9994, as currently presented without amendments. **(Exhibit 3)**

### **Discussion**

00:11:03 The committee asked Mr. Peura to explain changes in LC9994. Mr. Peura talked about a work group that determines the accountability of local towns, cities, and how the deadlines will be affected with the change.

00:21:55 There was discussion between committee members and staff about going forward with LC9994, and deal with the amendments later. It was suggested that ground rules are preferable instead of being in statute.

00:26:13 Sen. McGee suggested changing language from "shall" to "may". The committee members discussed the timeline that will give the County Commissioners time to fix the budget and not be delinquent. The committee members also discussed a problem about DoR changing the number of days from 56 days to 28 days. The timeframe is not enough time for DoR to have authority for delinquent notices if the language is changed from "shall" to "may". Mr. Gersovitz explained why the word "shall" should be used. Sen. McGee said to give the County Commissioners the tools they need to get the reports in on time.

### **Motion**

00:31:51 Sen. Hawks made the motion to accept the set 1 amendment for LC9994.

### **Discussion**

00:33:42 The committee discussed LC9994, which has set dates.

### **Motion withdrawn**

00:34:22 Sen. Hawks withdrew his motion of amendment, LC 9994, set 1, Exhibit 1.

00:34:37 Sen. Gebhardt talked about the DoR timelines being shortened. He suggested going forward with LC9994 the way it is written now, then the amendments can be dealt with during the Legislature. He discussed changing the language "shall" to "may" so the County Commissioners can set the budget.

00:38:14 The committee members and Mr. Peura discussed the short time period that DoR is required to report. Mr. Peura said the department can meet the 28 days as long as the information is in the day before.

**Vote**

00:40:13 The motion is to approve LC9994, with the 8 a.m. time frame on it. The motion **passed**.

**Motion**

00:40:30 Sen. Hawks made the motion to accept both amendments in set 1 of LC9994. Voice vote was taken to approve the set 1 amendments. The motion **failed**.

00:46:06 Roll call vote was taken to pass LC9994 out of committee with amendments set 1. **(Exhibit 4)** The motion **failed** 3 - 9. Rep. Grinde, Sen. Branae, and Sen. Hawks voted aye. Rep. McClafferty will sponsor the bill.

00:50:30 Dave Cook, DLI, distributed an amendment explaining the Construction Technique rules. **(Exhibit 5)** He said the rules could be completed by November 2, 2010.

00:51:30 The committee members talked about language change for DLI. Mr. Cook said they are ready to move forward with the change.

**Motion**

00:54:17 Rep. Lake made the motion for DLI to approve the language change for best practices and delay the rules. The motion **passed**. The staff will make the language change.

**Local government and education legislative preview**

00:57:13 Ms. Kurtz distributed a list of the LC bill draft requests. **(Exhibit 6, 7, 8)**

00:58:03 Sen. Peterson asked Ms. Kurtz to explain a spreadsheet distributed by MACo. Exhibit 7.

**Final report outline, items to be included**

- **Leanne Kurtz**

01:00:22 Ms. Kurtz distributed and explained a handout outlining the ELG committee's work during the interim. **(Exhibit 9)** She will complete the report and send it to the committee members for final review.

**The Future of ELG: Should the committee be reconfigured?**

- Background - Leanne Kurtz
- Discuss options

01:05:25 Rep. Grinde talked about the committee being divided into two committees. Ms. Kurtz distributed a handout that explains how the two committees would work if separated. **(Exhibit 10)**

01:09:16 Ms. Kurtz distributed a memo from Karen Berger, Financial Services Manager, explaining the financial side of dividing the ELG committee into two committees. **(Exhibit 11)** Ms. Berger handed out information showing what the appropriated expenditures will be if there are two separate committees. **(Exhibit 12)**

**Committee's recommendation**

01:15:27 There was discussion about options and reasons for two ELG committees.

01:42:47 Ms. Kurtz said the Legislative Council will be reviewing this issue at their meeting in September. She will draft a memo for approval from the Legislative Council requesting an increase in the number of ELG members to 16.

**Shared Policy Goals and Accountability Measures wrap-up**

• **Rep. Lake, staff**

02:09:14 Rep. Lake talked about the Legislative Resolutions subcommittee and its work on Shared Policy Goals and Accountability Measures for K-12 **(Exhibit 13)**, K-20 **(Exhibit 14)**, and the Montana University System. **(Exhibit 15)**

02:11:50 Casey Barrs, LSD Research Analyst, summarized the subcommittee's work of Shared Policy Goals.

02:14:22 Ms. Patty Myers, Montana Board of Public Education, said they are eager to proceed with the shared policy goals and move forward.

02:18:44 Mr. Barrs will draft a press release showing the agreement between the education entities in Montana.

**LFC Subcommittee overview: Reference Book process**

02:21:10 Barbara Smith, Legislative Fiscal Division (LFD), talked about a reference book on the LFD website. The subcommittee is working on options that will reduce the budget and come in-line with revenues.

02:25:39 Rep. Grinde thanked the committee members and staff for all the work they have done this interim. She thanked the termed out Sen. McGee and Sen. Gebhardt for their service, and Rep. Bean who did not run again. Rep. Arntzen and committee members thanked Rep. Grinde for her good work as chairperson of the ELG committee.

**Adjourn**

02:29:40 Rep. Grinde adjourned the ELG committee at 10:54 a.m.