

EDUCATION & LOCAL GOV'T IC
SEPTEMBER 13, 2012

Exhibit 23

Education and Local Government Committee
2011-2012 Interim Review

The recommendations may be for any statutory changes, changes in process, a general statement by the committee, or for ELG attention during the 2013-2014 interim. This document will form the basis of ELG's final report.

STATUTORY DUTIES

- **Administrative Rule Review**

ELG Activity:

ELG received reports from legal staff on administrative rules being proposed by agencies to which the committee is statutorily assigned. Much of the committee's activity related to rule review centered around Board of Public Education rules implementing Common Core State Standards and rules amending Chapter 55 Accreditation Standards and the costs estimated to be associated with those changes.

Recommendation (if any):

- **Review/request agency legislation**

ELG Activity:

ELG is required to review legislation that the agencies to which the committee is assigned plan to propose during the legislative session. The process for committee review was reviewed in March. The Office of Public Instruction submitted titles and short descriptions of its intended legislation in June 2012. ELG requested on behalf of OPI that all of the agency's proposed bills be drafted. The other agencies that are required to submit legislative proposals to ELG are not planning to request legislation for the 2013 Session.

Recommendation (if any):

- **Adoption or amendment of accreditation standard (20-7-101, MCA)**

ELG Activity:

The committee reviewed and discussed the above-referenced statute requiring its involvement and the process for receiving notices of proposed accreditation changes and for requesting fiscal analyses. The committee requested fiscal analyses for implementing Common Core State Standards and Chapter 55 Accreditation Standards.

Recommendation (if any):

- **Sand and Gravel report (82-2-701, MCA)**

ELG Activity:

The Bureau of Mines and Geology is required to establish a Sand and Gravel Deposit Program to investigate, if funding allows, sand and gravel deposits in areas where there are conflicts between development and sand and gravel operations. In prioritizing areas for investigation, the Bureau must consider the largest counties (based on census data) and the counties with the most opencut mining permits and subdivision applications. Within 1 year of starting an investigation the Bureau is required to report the results to the county in which the investigation occurred, the Environmental Quality Council, and ELG. An investigation was not initiated so no action was required.

Recommendation (if any):

- **State heritage properties report (Ch. 187, L. 2011)**

ELG Activity:

SB 3 was requested by the 2009-2010 ELG as a result of that interim's HJR 32 study of historic preservation. The bill requires state agencies to regularly report to the Preservation Review Board on the status and stewardship of the agencies' 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 (2-15-151, MCA). Because ELG 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. ELG will hear the report at its final meeting in September 2012.

Recommendation (if any):

- **Advisory councils, statutorily-required reports (Ch. 126, L. 2011)**

ELG Activity:

The committee reviewed the four advisory councils attached to agencies the committee is required to monitor and reviewed the eight reports required of the relevant agencies. The Office of the Commissioner of Higher Education and the chair of the Student Loan Advisory Council recommended elimination of that Council, stating that the Council had outlived its usefulness given changes in lending practices and in available lenders. The told ELG

that the most important associated issue--affordability of postsecondary education--is being undertaken by a task force of the Board of Regents.

Recommendation:

ELG requested a bill to eliminate the Student Loan Advisory Council (LC 184). ELG also requested a bill to eliminate one-time-only reporting requirements for an At-Risk Students report and an American Indian Achievement Gap report with which OPI had complied in 2010, and a biennial report of the Superintendent of Public Instruction (LC 183).

ELG recommended that the authority for the remaining advisory councils and reporting requirements remain intact.

ASSIGNED STUDIES/RESOLUTIONS

- **HJR 39 Study of Subdivision for Lease or Rent Exemption**

ELG Activity:

ELG received extensive background information on the subdivision statutes and exemption for lease or rent, as well as the sequence of events during the 2011 session that led to the study resolution request, and the litigation and Attorney General's opinion on the subject. The committee authorized formation of a working group comprised of representatives of various organizations and private property owners, facilitated by staff of the Department of Commerce's Community Technical Assistance Program. The working group met several times to determine if areas of consensus could be reached and provided regular updates to ELG on its progress. General agreement was reached on some policy directions, but consensus was not achieved on any specific bill drafts. With that understanding, CTAP staff and ELG staff presented five bill drafts for the committee's consideration in June 2012 and members of the working group as well as members of the public provided comment. Two ELG members were assigned to conduct additional study between the June and September meetings, and the concept for a sixth bill draft proposal was presented at the committee's September, 2012, meeting.

Recommendation (if any):

- **SJR 28 Study of Outcome-Based K-12 Education**

ELG Activity:

Staff provided background information and reports on performance-based and outcome-based systems in other

states. In November 2011, ELG refined its study priorities to focus on information-gathering and on longitudinal data systems, rather than on actually developing an outcome-based system for consideration by the 2013 Legislature. The Data Quality Campaign presented information about the importance of longitudinal data systems in improving student performance outcomes and provided examples of effective systems in other states. The Office of Public Instruction also provided in-depth information and regular updates on the development of its longitudinal data system, Growth and Enhancement of Montana's Students (GEMS). Staff provided information on outcome measures required by states of charter schools.

Recommendation (if any):

• **SJR 26 Monitoring Agency Activities as Recommended by Joint Appropriations Subcommittee**

ELG Activity:

As provided in SJR 26, ELG's involvement focused on monitoring of K-12 education and the progress on "(1) implementing state actions to create a culture of effective data use and to improve student performance; and (2) goals and objectives on K-12, higher education, and P-20, including the role and mission of the Education and Local Government Interim Committee, which absorbed the Joint Committee on Postsecondary Education Policy and Budget that was repealed in 1999."

The monitoring requested in SJR 26 was consistent with ELG's goals in collecting information on data systems and outcome-based education systems in other states, as well as reviewing the Shared Policy Goals and Accountability Measures (SPGs) developed during the 2009-2010 interim by a subcommittee of ELG, along with representatives of the Office of Public Instruction, the Office of the Commissioner of Higher Education, and other education-related organizations.

Recommendation:

ELG reaffirmed its agreement with the provisions of the SPGs and recommended more in-depth review of the components of the SPGs by the 2013-2014 ELG.

EDUCATION

- **K-12 Finance Training**

ELG Activity:

Two to three hours of each ELG meeting were dedicated to committee member training on the evolution of K-12 finance in Montana, along with detailed information about the current funding formula and structure. Legislative Fiscal Division and Services Division staff focused presentations on how the Constitution and litigation and court decisions over the years have shaped the K-12 funding formula, as well as how the current funding formula works and the changes that were implemented by the 2011 Legislature.

The Superintendent and the Finance Officer for Havre Public Schools discussed their budgeting process and the components of that district's budget. In addition, the committee reviewed the characteristics, revenue sources, and statutory restrictions of funds at the school district level.

Recommendation (if any):

- **Shared Policy Goals and Accountability Measures**

ELG Activity:

A subcommittee of the 2009-2010 ELG joined with representatives of the Office of Public Instruction, the Office of the Commissioner of Higher Education, the Board of Public Education, and other education-related agencies to develop Shared Policy Goals and Accountability Measures for the Montana University System, K-20 education systems, and K-12 education systems. Portions of the January, March, and June meetings were dedicated to reviewing those documents and discussing whether any updates or changes were warranted. No changes were recommended for the K-12 or K-20 documents. The Office of the Commissioner of Higher Education recommended a change to the University System document, to which ELG agreed.

Recommendation:

1. Add the following item to Goal 1.3 (Promote post-secondary education affordability): "Decrease average loan amounts and the percentage of students borrowing."
2. ELG recommends that the documents remain in effect and that the committee plan an in-depth review of the SPGs early in the 2013-2014 interim, involving all of the stakeholders who worked on the original

Recommendation (if any):

- **Board of Regents Monitoring**

ELG Activity: During the first half of the interim, two members of the committee were designated to attend Board of Regents meetings and report to ELG.

Recommendation (if any):

- **Compact on Educational Opportunities for Military Children**

ELG Activity: At the request of Rep. Price, ELG dedicated a portion of its agenda in March to learning about the Interstate Compact on Educational Opportunities for Military Children, which has been adopted by 41 states. The Council of State Governments Military Interstate Children's Compact Commission is the organization that advocates for state adoption, and representatives of the Commission as well as a representative of the Department of Defense presented detailed information about the contents of the compact, how the compact benefits children in military families who must frequently transfer among schools with different requirements, and what the compact does and does not require of participating states.

Public comment included parents of children in military families who are affected by frequent moves and how the compact would mitigate problems associated with those transitions.

A bill draft to implement the compact in Montana has been requested by Sen. Buttrey for introduction in the 2013 session.

Recommendation (if any):

- **Montana School Boards Association AA, A, B, C, and Indian School Boards Caucuses**

ELG Activity: ELG agreed early in the interim to host discussions at three of its meetings with representatives of schools of all sizes and constituencies in Montana. The Montana School Boards Association arranged for members of each of its caucuses to travel to Helena and present information on their schools' unique characteristics, achievements, and challenges. The committee discussed a wide range of subjects with these representatives, including funding challenges, the impacts of oil development in Eastern Montana on school services and

infrastructure, and innovative ways that some districts deal with the problems that their size, location, and student demographics pose. Representatives from the following school districts participated in these discussions: Boulder, Malta, Gardiner, Culbertson, Sunburst, Poplar, Dodson, Lodge Grass, Great Falls, East Helena, Corvallis, Bozeman, Seeley Lake, and Lolo.

Recommendation (if any):

- **Libraries**

ELG Activity:

A representative of the Montana Library Association and the Montana State Librarian provided a report on the role of libraries in education.

Recommendation (if any):

- **Teacher Training, Recruitment, Retention**

ELG Activity:

In January, ELG hosted a discussion with the Deans of the Colleges of Education at Montana State University and the University of Montana. The Deans were asked to report on their program curricula and how they prepare teachers to be most effective with changing technology, changing demands, and changing enrollment. The report included a Course Crosswalk for Elementary Education at both institutions and recent Praxis II Exam Scores.

At the request of Rep. Mehlhoff, OPI reported on educators employed in Montana's K-12 public schools who are teaching under a Class 5 Alternative License. The report noted that of the 11,939 FTE teachers, 218 FTE hold a Class 5 Alternative License. The licensees fall into two categories: those who have completed an educator preparation program but who do not meet the requirements for licensure; and those who have not completed an educator preparation program and are working toward licensure.

A report on the status of the Teachers' Retirement System was provided at the March meeting.

LOCAL GOVERNMENT

- **Local Emergency Services Fees**

ELG Activity:

Staff provided a report on local accident response fees,

how those fees are handled in various jurisdictions throughout the country, a discussion of "fee" versus "tax", and an analysis of local government authority to impose accident response fees in Montana. The report concluded that the question of whether local governments have the authority to impose accident response fees is unclear and has not been definitively addressed in the Montana Code Annotated or in case law. In the absence of clear authority or a prohibition, it may be concluded that a local government with self-governing powers may impose the fees and a local government with general powers likely does not have that authority.

Recommendation (if any):

- **Public Safety Communications/Interoperability**

ELG Activity:

The Information Technology Services Division's Statewide Interoperability Coordinator, along with a representative of the Sheriffs and Peace Officers Association and the Lewis and Clark County Sheriff discussed public safety radio interoperability, statewide efforts to improve the infrastructure and establish policies, and how local governments have been involved in the development of the program and policies.

Recommendation (if any):

- **Zoning Protest**

ELG Activity:

Legislators introduced a number of bills during the 2011 session to modify the protest provisions for county-initiated zoning. Zoning protest has also been at the center of recent litigation in Missoula County and Gallatin County. Section 76-2-205, MCA, provides that if 40% of real property owners or real property owners representing 50% of the titled property ownership taxed for agricultural purposes or as forest land protest zoning, a board of county commissioners may not adopt a zoning resolution for at least 1 year. Staff reported on the statutory provisions and on the background and outcome of *Gateway Opencut Mining Action Group v. Board of Commissioners of Gallatin County* and *Williams v. Board of County Commissioners of Missoula County*.

Recommendation (if any):

- **Flooding impacts**

ELG Activity:

Severe flooding during the Spring of 2011 caused significant damage to personal property and infrastructure throughout the state. Representatives of the Department of Military Affairs Disaster and Emergency Services Division provided reports at ELG's June and September, 2011, meetings on the extent of the flooding, flood damage, mitigation efforts, and financial assistance available to property owners and communities that experienced flood-related losses.

Recommendation (if any):

- **Wildland Fire Updates**

ELG Activity:

Department of Natural Resources and Conservation staff reported on the 2012 wildland fire season and Legislative Fiscal Division staff reported on costs incurred by the state for wildland fire suppression.

Recommendation (if any):

- **Family Transfer Subdivision Exemption**

ELG Activity:

At the committee's September, 2011, meeting, Rep. Gary MaClaren asked that the committee add study of the family transfer subdivision exemption to the committee's study of the subdivision for rent or lease exemption requested in HJR 39. Rep. MaClaren presented a letter and exhibits from the Ravalli County Clerk and Recorder that discussed the reasons why she believes an examination of the family transfer exemption is warranted. The committee declined to add the exemption to its study but agreed to host a panel discussion on the subject in January. The panel included the Ravalli County Clerk and Recorder, an attorney representing the Montana Association of Counties, and a representative of the Montana Association of Realtors. Staff provided a background report on the statutes governing the exemption, how they have evolved, and how some local jurisdictions handle requests for an exemption. The committee chose to take no additional action on the matter.

Recommendation (if any):

- **Revisions to County/School Budgeting Deadline Legislation**

ELG Activity:

HB 123, enacted by the 2011 Legislature, was the product of work completed during the 2009-2010 interim and

requested by that interim's ELG. The bill changed numerous deadlines for school district and county budget submissions. The interim work to develop the legislation involved the Montana Association of Counties, the Department of Revenue, and school finance officials. As counties and schools began to comply with the changes, they identified some areas where further changes were warranted. The Montana Association of Counties suggested the changes to ELG and indicated that all of the stakeholders who participated in the drafting of the original legislation agreed that the changes were appropriate.

Recommendation: ELG requested a committee bill (LC 182) to implement the changes.

OILFIELD DEVELOPMENT IN EASTERN MONTANA

ELG Activity: Rapid growth in population and development in Eastern Montana counties where oil drilling and the associated activities are occurring is having profound impacts on local governments and school systems in those areas. These impacts were an integral part of the committee's discussions with school officials, its deliberations on the HJR 39 subdivision for rent or lease subdivision exemption, and in the information provided on 2-Year postsecondary education and workforce training.

In early November, 2011, Rep. Rosendale arranged for legislators to tour affected areas in Montana and North Dakota. Some ELG members participated in that tour, along with numerous other legislators and local officials. Rep. Rosendale reported on the tour at ELG's November meeting. Members of the Energy and Telecommunications Interim Committee also attended the presentation.

In April, 2012, Legislative Fiscal Division staff organized a visit to affected areas in Montana and North Dakota. Two members of ELG participated in that tour, which involved meeting with local school district and local government officials.

Recommendation (if any):