

# **A Study of Other Legislatures Interim Committees**

Prepared for the Legislative Council  
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The interim is the period between sessions. By definition, the four states with biennial legislatures have a longer interim period than annual session states, and six states are in session full-time and do not have an interim. In the following information, charts of all 50 states were reviewed. Montana is most similar to Nevada and North Dakota, but some minor variation exists. Texas, although a state with biennial sessions, is operated more as a full-time legislature and their interim structure is different from the other three biennial session states.

## **STATE VARIATIONS IN INTERIM PROCESSES**

In 1990, NCSL surveyed state legislatures about their interim procedures. In 2010, they did an updated survey and 5 states, including Montana, responded. The information from these reports is summarized below and posted on the Legislative Improvement website under the Legislative Council.

- The states that have interim committees use various types and combinations of committees to perform interim work: standing, select, ad hoc, task force, and public-private committees. In 1999, we used joint subcommittees of standing committees. Two states, Nebraska (unicameral) and Oklahoma, use single-house committees; 17 states, including Montana, use a joint committee makeup; and the remainder have both.
- The varieties of who acts as the chair of interim committees include: standing committee chair (26), a member selected by leadership (27), a member selected by the interim committee (19 including Montana), or the sponsor of the bill or resolution (6). Only 14 states, including Montana, use only one method of appointing the chair, the remainder using a combination. Only Virginia exclusively uses the sponsor of the bill or resolution.
- 12 states fund interim committees through a standing committee budget, 21 states, including Montana, have a special appropriation, and 2 states responded with a note that it is in the Legislative Research Commission (Kentucky) or Legislative Council (Maine) budget.

- In slightly less than half of the states (20), including Montana, not all legislators serve on an interim committee, and 34 states also have nonlegislative members who serve. In Montana, EQC has public members, and sometimes public stakeholders will serve on interim committee subcommittees or working groups.
- In 28 states the members are of the intact standing committees, in only 7 states are the members not appointed by leadership, and in 14 states members are appointed by a joint nonpartisan commission or committee. In Montana, the Speaker of the House and the Senate Committee on Committees appoint members.
- There are various methods for scheduling interim committees: call of the chair, call of the chair within limits set by leadership, call of the chair on approval of the Council, by leaders, or by a joint nonpartisan commission. Montana may be unique in letting the committees schedule their own committees within the limits of their allocated appropriation.
- Powers afforded to interim committees vary with most states having most of these powers: draft or amend legislation, prefile legislation, recommend floor action, conduct investigations, conduct public hearings, conduct special studies, and oversee agencies and programs. At the time of the 1999 survey, Montana's interim committees did not prefile legislation or recommend floor action. Currently, interim committees may recommend and request committee legislation or request agency legislation, both of which are required to be preintroduced (prefiled).
- Selection of interim topics and projects may be by adoption of a bill or resolution, by leadership, by the committee, by the committee chair, by a joint nonpartisan commission, or by other methods (Rules Committee, Legislative Council).
- Results of interim work ranges from legislation or amendments drafted, legislation prefiled, agency or program reviewed, testimony gathered, floor action recommended, final report to the Legislature or to the Joint Committee or Commissions. Montana does not recommend floor action or report to a joint committee.
- 34 states are either required to report or sometimes report on interim activities through a variety of methods such as meeting minutes, a mid-interim/final report, a written and oral report to Legislative Council, or a written report to leadership or the clerk.
- 31 states/chambers monitor committee work, mostly by the Legislative Council, by

leadership staff or general counsel, or by staff directors.

- Staffing for interim committees includes the standing committee staff, joint nonpartisan research staff, caucus research staff, research staff hired by the chair, or clerical support provided by the joint nonpartisan commission or hired by the chair. Thirty-three (33) states staff interim committees with the joint nonpartisan research staff, including Montana. Seventeen (17) of those states also responded that they staff with the standing committee staff (Montana not included).

Attached to this report is a different summary of 10 states that provides detail on number of interim committees, topic selection process, meeting scheduling, and staffing.

### MONTANA'S CURRENT INTERIM STRUCTURE

There are seven statutory interim committees:

- Economic Affairs Committee
- Education and Local Government Committee
- Children, Families, Health, and Human Services Committee
- Law and Justice Committee
- Energy and Telecommunications Committee
- Revenue and Transportation Committee
- State Administration and Veterans' Affairs Committee

There is also the Water Policy Committee, created in 2009 after being a subcommittee of the Environmental Quality Council. The Environmental Quality Council predated the interim committees and was created in 1971, originally as a separate agency. It now performs the same functions as interim committees in addition to its original statutory duties, and it is a part of the Legislative Services Division since branch consolidation in 1995.

The three administrative committees, the Legislative Council, Legislative Finance Committee, and the Legislative Audit Committee, also meet during the interim. The Legislative Audit Committee oversees the constitutional postaudit function performed by the Legislative Audit Division. The Legislative Council and the Legislative Finance Committee may perform some

interim committee duties, such as conducting studies, and have separate administrative responsibilities, including administering the Legislative Services Division and the Legislative Fiscal Division, respectively. The Legislative Consumer Committee also meets during the interim with separate duties not related to the duties of an interim committee.

Senate Bill No. 11 (SB 11), passed in the 1999 Legislature, revised the interim committee structure to create what we know today. The goals of SB 11 were: (1) economy; (2) education; (3) efficiency; (4) consistency; and (5) enhanced public access.

**Economy** was intended to be achieved by having fewer committees and meetings that would translate into lower costs.

**Education** was intended to provide greater continuity between the session and the interim and to create a structure in which legislators could become knowledgeable about emerging issues and the agencies that comprise the Executive Branch and their ongoing functions. Interim committee members are statutorily required to select not less than 50% of the members from the standing committees that consider issues within the jurisdiction of the interim committee and at least one member from the joint subcommittee that considers the related agency budgets.

**Efficiency** was intended to be achieved by providing more structure and focus thereby making more efficient use of legislator and staff time. The structure was also intended to clearly delineate each committee's subject area jurisdiction for the benefit of the public, state agency personnel, and other interested individuals and organizations.

**Consistency** was intended to be achieved by more consistent monitoring and review of all Executive and Judicial Branch agencies. Under the former structure only some agencies ever received any type of scrutiny and in many instances there was no committee that had jurisdiction over issues that arose during the interim. In addition, some agencies had no opportunity to develop relationships with the Legislature or to receive input from legislators that could benefit both the agency and the Legislature during the session. Statute requires that specific attention is intended to be given to the following: (1) identification of issues likely to require future

legislative action; (2) opportunities to improve existing law through an analysis of problems experienced with the application of the law by an agency; (3) experiences of the state's citizens with the operation of an agency that could be amenable to improvement through legislative action; and (4) the accumulation, compilation, analysis and furnishing of information bearing upon its assignment and relevant to existing or prospective legislation that the committee determines to be pertinent to the adequate completion of its work.

**Enhanced public access** was intended to be achieved by providing a formal structure through which to funnel public concerns and to provide a forum for public input.

Two former statutory responsibilities were also allocated among the new interim committees. Each committee is assigned the responsibility of reviewing administrative rules for the agencies assigned to the committee. Under the former structure the Administrative Code Committee reviewed all rules proposed by Executive Branch agencies, but it was limited to acting on a proposed or adopted rule. The current interim committee structure allows a committee and the public to become involved prior to formal rulemaking proceedings and provides the opportunity for greater public awareness of policy issues. This complements the Legal Office rulemaking review function, and an attorney helps staff the interim committee that oversees each respective agency. Each committee also has the responsibility for conducting interim studies as assigned by the Legislative Council. Under the former structure a separate committee was appointed for each study and the committee had no authority beyond the specific study assigned.

#### MONTANA'S HISTORY OF INTERIM STRUCTURES AND PROCEDURES

Montana's interim committees have varied over time. Beginning in the late 1950s, the Legislative Council was the original, sole legislative committee that provided active research during the interim, and its recommendations built the legislative and state government structures we know today. Any interim committees were subcommittees of the Legislative Council. It reviewed the work and if it agreed with the conclusion, it passed the recommendations to the Legislature. The Legislative Audit Committee was created in 1967, as was a Fiscal Review Committee, which existed until 1971. The Environmental Quality Council was created in 1971 as a separate agency and committee. The new Constitution in 1972, required the postaudit function

of the Legislative Audit Division and established the Office of Consumer Counsel. A 1973 reorganization of the Legislative Council expanded permanent staff and established functional divisions. This reorganization brought about new interim committee functions.

The reorganization removed the Council from any authority over committee recommendations, and the committee work was to be done by standing committees through joint subcommittees. The Committee on Priorities (essentially Joint Rules) assigned the studies, and their recommendations were submitted independent of the Council. Standing committees were thought to provide greater continuity with the succeeding session. This was designed in the context of annual sessions. Rules allowed the committees to report bills directly to second reading, but with the demise of annual sessions that feature was lost; however, the interim committee structure remained.

The Legislative Council, with its expanded responsibilities and staff, became an administrative committee in charge of overseeing staff services rather than a research entity. A committee charged with implementation of the Office of Consumer Council established the legislative committee to head the office. Through appropriation, the Legislature provided resources to the Legislative Auditor to provide a fiscal analysis program. That program became a separate agency as a result of action by the 1975 Legislature, which established the Legislative Finance Committee.

Other precursors to today's interim committees were the Administrative Code Committee (1975), Committee on Indian Affairs (1977), Revenue Oversight Committee (1979), Coal Tax Oversight Subcommittee (1983, repealed 1993), Water Policy Committee (1985), Computer System Planning Council (1989), Committee on Indian Affairs (1989), Joint Committee on Postsecondary Education Policy and Budget (1993), Committee on Public Employee Retirement Systems (1993, with a termination date of 1999), Joint Oversight Committee on Children and Families (1995), and Committee on State Management Systems (1997, terminated in 2002).

In addition to those statutory committees, beginning in 1979, the Legislature would pass study resolutions on which all legislators would be polled. In a process similar to today, the Council

reviewed the priority lists with estimated costs and staff recommendations and designated the resolutions to be studied. The Speaker of the House and the Senate Committee on Committees would appoint four members from each house, no more than two from each party, and a legislator was not allowed to serve on more than two committees. The differences were that each subcommittee was formed around one or more study topics, so the committees varied each biennium.

In 1999, this structure was changed to what we know today, and many of the previously mentioned statutory committees were repealed and their duties incorporated into the new interim structure. The administrative committees remained: the Legislative Council, the Legislative Finance Committee, the Legislative Audit Committee, and the Legislative Consumer Committee, as did the Environmental Quality Council.

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