

LOCAL GOVERNMENT INTERIM COMMITTEE

**COMMITTEE HISTORY and DRAFT WORK PLAN
for the 2017-2018 Interim**

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INTRODUCTION

This document discusses the statutory authority of the Local Government Interim Committee, chronicles the recent history of legislative committees working on local government issues and local government-related studies, lists studies assigned to the Committee by the Legislative Council and proposed approaches to conducting the studies, and serves as a guide to the Committee's interim activities.

The work plan is intended to be a fluid document, subject to modification during the interim as questions arise and Committee decisions are made.

LOCAL GOVERNMENT INTERIM COMMITTEE STATUTORY AUTHORITY

The 2017-2018 interim is the first for the Local Government Interim Committee. Senate Bill No. 151, enacted by the 2017 Legislature and codified as Section 5-5-232, MCA, provides for the Committee:

Section 1. Local government committee. There is a local government committee. The committee is treated as an interim committee for the purposes of 5-5-211 through 5-5-214. The local government committee shall:

- (1) act as a liaison with local governments;
- (2) promote and strengthen local government through recognition of the principle that strong communities with effective, democratic governmental institutions are one of the best assurances of a strong Montana;
- (3) bring together representatives of state and local government for consideration of common problems;
- (4) provide a forum for discussing state oversight of local functions, realistic local autonomy, and intergovernmental cooperation;
- (5) identify and promote the most desirable allocation of state and local government functions, responsibilities, and revenue;
- (6) promote concise, consistent, and uniform regulation for local government;
- (7) coordinate and simplify laws, rules, and administrative practices in order to achieve more orderly and less competitive fiscal and administrative relationships between and among state and local governments;
- (8) review state mandates to local governments that are subject to

1-2-112 and 1-2-114 through 1-2-116;

(9) make recommendations to the legislature, executive branch agencies, and local governing bodies concerning:

(a) changes in statutes, rules, ordinances, and resolutions that will provide concise, consistent, and uniform guidance and regulations for local government;

(b) changes in tax laws that will achieve more orderly and less competitive fiscal relationships between levels of government;

(c) methods of coordinating and simplifying competitive practices to achieve more orderly administrative relationships among levels of government; and

(d) training programs and technical assistance for local government officers and employees that will promote effectiveness and efficiency in local government;

(10) conduct interim studies as assigned pursuant to 5-5-217; and

(11) report its activities, findings, recommendations, and any proposed legislation as provided in 5-11-210.

How the Committee fulfills its statutory charge is left to the members to determine. To help chart an effective course for this new Committee and provide a context for its creation, it may be useful to review interim committees and studies of the recent past and how local government-related matters have been addressed by legislatively-created entities when the legislature is not in session.

INTERIM COMMITTEE EVOLUTION

1997 During the 1997-1998 interim, the Legislative Council and Legislative Services Division staff reviewed the interim study and interim committee process. At that time, certain administrative and policy committees existed in statute, while other committees and subcommittees were formed each interim to conduct a particular study or oversee a particular matter.

Permanent statutory committees were the Legislative Audit Committee, Legislative Council, Legislative Finance Committee, Environmental Quality Council, Revenue Oversight Committee, Administrative Code Committee, a Committee on Indian Affairs, and the Districting and Apportionment Committee. Committees created for the 1997-1998 interim included a Property Tax Committee, Electric Utility Restructuring Transition Advisory Council, Gambling

Study Commission, State Management Systems Committee, Computer Systems Planning Council, Public Employee Retirement Systems Committee, Correctional Standards and Oversight Committee, Children and Families Committee, a Welfare and Child Support Enforcement Committee, and a Veterans' Needs Committee.

Proliferation of committees, potential for unnecessary duplication of work, inconsistent interactions with Executive and Judicial Branch entities, and the allocation of legislator time and staff resources prompted the review of the process.

1999 Senate Bill No. 11 resulted from the review and was enacted by the 1999 Legislature. The bill created six permanent statutory interim committees with distinct subject area jurisdictions, duties, and assigned agencies: Business and Labor; Education; Children, Families, Health, and Human Services; Law, Justice, and Indian Affairs; Revenue and Taxation; and State Administration, Public Retirement Systems, and Veterans' Affairs.

The 1999 Legislature also enacted SB 184, a general revision of property tax law, a provision of which was to provide for reimbursements to local governments for loss of property tax revenue resulting from several other property tax-related bills that session. In addition, SB 184 established and appropriated funding for a Local Government Funding and Structure Committee (LGFSC) and a Court Funding and Structure Committee.

The LGFSC consisted of 10 members, including legislators, city and county representatives, and state government representatives. Language in Section 168 of the bill articulates the intent behind creating the committees:

(6) (a) The purpose of the committees is to conduct a study of funding local government, including the courts, to ascertain the best method of allocating current and future resources, while providing a complementary funding relationship between local government and state government. This complementary funding relationship must provide stable and reliable revenue streams to local governments, including the courts. The study must explore regional concepts, as well as further lifting of local government revenue restrictions and de-earmarking of revenue to local governments. The complementary funding relationship must meet the criteria set forth in the following vision statement, adopted by the local government funding and school finance visioning group:

"We are dedicated to partnerships among the state, counties, cities, and school districts that are based on mutual trust and respect for local authority. This partnership will enable all governments to respond to the demands of their citizens in the 21st century through a mix of taxes and fees that is understandable, equitable, stable, and adequate. The collection and distribution system for these taxes and fees will be simple, efficient, accurate, and timely."

2000 In December, 2000, the committee forwarded its final report, "Simplification in the 21st Century" to Governor Marc Racicot. Among the recommendations was a bill draft that became known during the 2001 session as "The Big Bill", creating an entitlement share program and aiming to effect in statute the committee's goals of:

- simplifying billing, collection, accounting, distribution and reporting of all revenue;
- de-earmarking revenue and eliminating expenditure mandates for local government; and
- creating a rational, dependable, stable funding structure for cities and counties.

Among the other recommendations involving local government accounting and budgeting laws, unfunded mandates, earmarking revenue, and mill-levy based funding caps was a recommendation to create a State and Local Government Relationship Committee. According to the final report, the committee was to "operate similar to the Environmental Quality Council for state and local government issues" and include legislators and representatives of local governments, the K-12 education community, the Department of Commerce and the Department of Revenue.

This recommendation included the proposed committee's duties, the wording of which is nearly identical to the duties that were assigned to the Education and Local Government Committee when that committee was created in 2001 and to the LGIC's duties. Language in the 2000 recommendation was the genesis of section 5-5-232, which creates the LGIC and assigns its duties.

The LGFSC's final report made note of other matters that a State and Local Government Relationship Committee could explore. Those included transportation, health, land, welfare, and building inspection. "The local government officials [on the committee] expressed a strong interest in having a committee to focus the attention on these issues and to have local government

officials and legislators working together with the assistance of the executive branch on potential solutions," the report read.

2001 The bill to create a State and Local Government Relationship committee failed in the 2001 Legislature. During that session, however, SB 10, which made numerous changes to the interim committees that had been established in 1999, was amended to assign local government liaison responsibilities to what would be known as the Education and Local Government Interim Committee and, despite a few legislative attempts over the years to split the committee into two, the statute remained largely unchanged for the succeeding 16 years.

LOCAL GOVERNMENT STUDIES AND ELG ACTIVITIES

Local government studies of interims past have included:

- general review of local government administrative laws;
- examination of juvenile probation officer salaries;
- the Montana Subdivision and Platting Act (2 consecutive interims);
- review of statutes governing special purpose districts;
- land use in the wildland-urban interface;
- subdivision exemptions for lease or rent;
- county road rights-of-way on state trust land; and
- local fire and emergency services.

1999 The Education Interim Committee undertook local government-related studies the interim before local government liaison duties became part of its official charge. During the 1999-2000 interim, the Education Interim Committee created a Local Government Subcommittee to handle two studies regarding modernization of local government administrative laws and review of juvenile probation officer salaries, requested by HJR 29 and HJR 38, respectively.

HJR 29 requested review and modernization of statutes governing local government administrative matters, including requirements for public notice and public hearings, records management, local elections, and contracting and bidding. No committee legislation resulted.

HJR 38 requested review of funding and employment mechanisms for juvenile probation officers and examine pay discrepancies. The study resulted in HB 62,

which failed to pass the 2001 Legislature.

2001 Interestingly, the 2001 Legislature requested no local government interim studies to assign the newly-configured Education and Local Government Committee. To fulfill its statutory obligations, the committee agreed to:

- monitor the implementation of House Bill No. 124;
- monitor the state assumption of welfare programs (Senate Bill No. 339);
- monitor the transition to state assumption of District Court funding (Senate Bill No. 176); and
- monitor the interim study of health care costs and health insurance costs (Senate Joint Resolution No. 22).

2003 Local government returned to ELG's agenda with a Local Government Subcommittee assigned to take on HJR 37, a review of the Montana Subdivision and Platting Act (MSPA). The subcommittee met five times with numerous stakeholders and generated a bill draft that would become SB 116, a significant revision of the subdivision statutes. The 2005 Legislature enacted SB 116.

2005 A Local Government Subcommittee continued review of the MSPA, as requested in SJR 11. The Subcommittee again met five times and involved many of the same stakeholders in the review process. The resulting bill, SB 110, failed to pass the 2007 Legislature.

2007 HB 49, enacted by the 2007 Legislature, required review of the statutes governing special purpose districts. ELG formed a HB 49 Subcommittee that included non-legislative representatives to analyze each type of special district provided for in statute and devise a uniform set of governing statutes for certain districts. That effort resulted in SB 57 and SB 58, revising special districts laws, both of which passed the 2009 Legislature.

The 2007 wildland fire season prompted a special session in September 2007 to arrange for paying the state's share of costs incurred in that season. The Legislature also created the Fire Suppression Committee (FSC) to examine fire policy and the risks and costs of wildland fire in Montana. One of the FSC's primary areas of study involved the wildland-urban interface and land use laws and land use and building code regulations in the interface.

2009 The 2009 ELG continued some of the work of the FSC, following up with reports

on the wildland fire season and its impacts on local governments, as well as looking into aspects of development in the wildland-urban interface. The committee also reviewed interim zoning litigation and closely followed the implementation of HB 645, which provided for local government stimulus grants through the Department of Commerce as part of the American Recovery and Reinvestment Act.

- 2011 Escalating oil and gas-related development in Eastern Montana as well as disputes in some counties over interpretation of the MSPA prompted a review of the MSPA's subdivision exemptions for conveyance by lease or rent. A separate working group organized by the Department of Commerce's Community Technical Assistance Program met throughout the interim and brought a package of recommendations to ELG. Ultimately, the committee did not request legislation but a member of the committee did so based on the recommendations of the working group. The 2013 Legislature enacted the bill.
- 2013 The ELG dedicated a portion of one agenda during this interim to economic and infrastructure-related local government impacts of oil and gas development. It also reviewed local incident response and management, requesting a bill to allow for funding of all-hazard incident management teams when an incident has exceeded local response capacity but has not risen to the level of a disaster or emergency. The committee chose to focus the majority of its time and resources on a study of records management and on K-12 and higher education.
- 2015 The two studies assigned to ELG for the 2015-2016 interim were related to local government. SJR 20 requested a study of county road rights-of-way on state trust land, challenges of identifying roads in some counties, and how the rights-of-way are valued. SJR 21 requested a broad study of local fire and emergency services, the focus of which became exploring ways to help local fire departments purchase workers' compensation for volunteer firefighters. Both studies resulted in draft legislation. The committee requested and the 2017 Legislature enacted SB 15 to amend the statute governing the Department of Natural Resources and Conservation's collection of full market value when issuing a historic right-of-way deed. A bill to provide assistance to local fire departments for purchase of workers' compensation did not receive committee approval.

ASSIGNED STUDIES, STUDY PLANS

The Legislative Council assigned studies requested in HJR 25 and SJR 21 to the LGIC.

HJR 25

HJR 25 seeks a review of statutes governing municipal fire departments. The resolution arose after the failure of HB 534 in the House Local Government Committee. Current law requires municipalities of the first and second class to have a paid fire department. Municipalities of the third class may opt to contract for fire protection or may be part of a rural fire district. The requirement is proving to be problematic in some locations as municipalities grow and are forced into a statutorily-required fire protection arrangement that may not be the most cost effective means of providing the service. HB 534 would have removed the requirement that municipalities of the first and second class have a paid fire department and would have allowed for a municipality to merge with a rural fire district or otherwise provide fire protection in the way it determines is appropriate.

Some questions to consider as the study progresses are:

1. What were the arguments against HB 534 in the hearing and during executive action?
2. What was the rationale for requiring cities of the first and second class to have a paid fire department?
3. What areas of the state is the statutory requirement proving to be problematic? Why?
4. What should the process be for a municipality to dissolve a municipal fire department and to change the way fire protection is provided?
5. Should the process require a vote of the residents of the municipality? Should the statute require that residents in the existing rural fire district have input or be notified?
6. Should a requirement for holding an election be that the electorate is provided with information estimating the difference in cost of the means of providing fire protection?
7. What should be considered in the dissolution of a municipal fire department? What should be included in a plan of dissolution?
8. Should a fire protection plan be required that would include details on dispatch, prioritization of structure fires and wildland fires, and other aspects of operation?

A proposed approach to the study is outlined below.

July 2017 meeting	Presentation and discussion of study plan; staff to provide background information and review contents of resolution; staff to provide statutory context for local fire protection and classification of municipalities; staff to provide information regarding hearings, testimony on the resolution; comment from interested individuals and groups; Committee discussion, directions to staff.
July 2017-November 2017	Staff to work with interested individuals and organizations to gather information regarding areas of the state where municipalities are being required to convert to paid fire departments for fire protection and costs estimated to be associated with the requirement; staff to generate policy options for Committee to consider.
November 2017 meeting	Staff to report on findings; comment on policy options from representatives of municipalities that may be affected by the legislation, counties, volunteer fire departments, professional fire departments, fire districts, organizations of fire chiefs, the Montana State Council of Professional Fire Fighters, and the Montana State Firemen's Association; presentations from identified organizations; Committee discussion of policy options; Committee decision whether to pursue legislation; directions to staff.
November 2017-February 2018	Staff to work with interested individuals and organizations to refine legislation to reflect Committee decisions on policy options (if Committee has decided to pursue legislation).
February 2018 meeting	Staff report on progress, answers to any questions raised in November; review revisions to draft; comment from interested individuals and organizations; Committee discussion, directions to

staff.

February 2018-July 2018

Staff to finalize any legislation pursued by the Committee; send drafts to interested individuals and organizations; solicit comment.

July 2018

Final review of any legislation; comment; final recommendation by Committee.

SJR 21

SJR 21 requests an examination of the state's emergency medical service and volunteer fire protection service systems. A number of factors contribute to the shortage of volunteers and delayed response time and response quality, including changing demographics, lack of incentives to serve as volunteers, employers' hesitancy to allow employees to volunteer, population distribution in a large geographic area, unstable funding sources for services, and outdated communication, medical service, and fire protection equipment. The resolution seeks an assessment of the emergency care and volunteer firefighters systems in the state and a review of:

- training requirements for volunteers;
- size of coverage areas;
- impacts of coverage area on response times;
- adequacy of equipment; and
- compensation, benefits, and incentives offered to volunteers.

Some questions to consider as the study progresses are:

1. What studies have recently been conducted that address some of the same issues and what were their conclusions?
2. Are training requirements appropriate or should they be more or less demanding?
3. How are the services funded (federal, state, local, private, combination)?
4. Do incentives work to increase numbers of volunteers?
5. What are ways other states fund emergency medical and fire protection services?
6. Are there statutory impediments to improving and sustaining effective systems?

A proposed approach to the study is outlined below.

July 2017 meeting	Presentation and discussion of study plan; staff to provide background information, summarize previous studies and recommendations, and review contents of resolution; staff to provide statutory context for local fire and emergency service systems; staff to provide information regarding hearings, testimony on the resolution; comment from resolution sponsor and interested individuals and groups; Committee discussion; directions to staff.
July 2017-November 2017	Staff to work with interested individuals and organizations, including the Department of Public Health and Human Services and the Disaster and Emergency Services Division of the Department of Military Affairs to gather information regarding training requirements, coverage areas, funding sources, equipment and personnel needs; staff to examine the volunteer model and identify strategies other states employ in sustaining their volunteer systems; staff to begin to generate policy options for Committee to consider.
November 2017 meeting	Staff to report on findings; presentations or panel discussion from providers, other experts; comment from interested individuals and organizations; Committee discussion of policy options; directions to staff.
November 2017-February 2018	Staff to work with interested individuals and organizations to refine policy options; staff to begin drafting legislation if any is requested.
February 2018 meeting	Staff report on progress, answers to any questions raised in November; review additional information collected; comment from interested individuals and organizations; Committee discussion; directions to staff.

February 2018-July 2018

Staff to finalize any legislation or recommendations pursued by the Committee; send drafts to interested individuals and organizations; solicit comment.

July 2018

Final review of any legislation, recommendations; comment; final recommendation by Committee.

OTHER TOPICS, MEMBER-INITIATED STUDIES

LGIC members have identified additional topics they are interested in the Committee exploring, which may be included in the work plan as time allows and based on the Committee's selected priorities.

- Tax Increment Finance Districts and HJR 18

The Legislative Council assigned the tax increment finance study requested in HJR 18 to the Revenue and Transportation Interim Committee (RTIC). Several LGIC members have expressed interest in following the study. HJR 18 requests that the study examine administrative costs and cost variance between communities, public-private investment ratios, whether to set a maximum allowable tax base and a maximum allowable incremental taxable value, the definition of “blight” and whether a third party should be involved in determining whether blight exists, expenditures on public projects, remittance after expiration of the TIF provision, impacts of districts that use TIF on other taxing jurisdictions, use of TIF for façade improvement and historical preservation, and taxation of centrally assessed property within a TIF district.

The Legislative Audit Division is conducting an audit of districts that use TIF. The audit is expected to be completed in early 2018 and may be presented to RTIC after review by the Legislative Audit Committee. LGIC may wish to hold its February meeting in conjunction with RTIC for the purposes of reviewing and discussing the audit report.

Staff of RTIC and LGIC will coordinate in a manner that allows LGIC to keep apprised of RTIC's progress and ensure LGIC members receive the information and analyses provided to RTIC members.

- Land use laws as they impact affordable housing and workforce housing

HJR 31 requested an interim study of local zoning and state and local subdivision and water and sanitation laws and regulations in the context of how they affect development and availability of workforce housing. HJR 31 failed to pass; however, Committee members have expressed interest in looking at some aspects of this proposed study and the issue of affordable housing.

- Infrastructure, including use of fuel tax revenue

It was suggested that the Committee request information on how cities and counties are using fuel tax revenue. Another member proposed including in the

work plan a discussion of road and street management and maintenance.

- Local option tax
Legislation providing for a local option tax has been proposed in past legislative sessions and has failed to pass. A member requested inclusion of the topic on the Committee work plan. Last interim, the Revenue and Transportation Interim Committee studied the adequacy of local government revenue generating capacity. Research provided to RTIC could be a starting point for this discussion if the Committee chooses to pursue it.
- Entitlement Share history and funding mechanism
The Local Government Funding and Structure Committee's top priority, as expressed in its 2000 final report, was long-term entitlement share allocation. The LGIC may wish to revisit the development of the entitlement share and how it works and determine if it continues to serve its intended purpose and if modifications may be warranted.

PROPOSED MEETING SCHEDULE AND BUDGET

The LGIC has a budget of \$15,500 to conduct its business during the 2017-2018 interim. This will allow for four meetings, a couple of which may be 2-day meetings.

July 14, 2017

(week of) November 6, 2017

(week of) February 21/22, 2018 - Possible joint meeting with RTIC to discuss TIF Audit Report

(week of) July 16, 2018

COMMITTEE PRIORITIES

LGIC will have at most 56 hours of meeting time to complete its work if it is determined that 2-day meetings are warranted for the remaining three meetings. The Committee will need to establish priorities among the possible activities and studies. Staff will use that information, working with the chair, to arrange agendas and provide appropriate

and timely information to facilitate members' decision making.

The table below is a guideline for how priorities may be interpreted.

Priority A	Priority B	Priority C	Priority D
Highest priority	Medium priority	Low priority	No staff or committee time
Staff to schedule as much agenda time as necessary; collect and report on information; committee, staff, and stakeholders identify problems needing attention or correction; presentations; discussion of issues and options; deliverables could include a report, recommendations, or legislation	Staff to collect information, report to committee; schedule presenters and discussions on more than one agenda; deliverables could include staff white paper	Staff to collect information and send it to members; possibly an item on a single agenda	

WORK PLAN MATRIX AND PROPOSED ACTIVITIES (*Version 1.0*)

	July 2017	November 2017	February 2018	July 2018	Priority
Statutory duties - local government liaison activities	Meet with representatives to discuss role of the committee, expectations, consider scheduling a different in-depth topic for each meeting			Discuss potential local government legislation	
HJR 25 study of municipal fire statutes	Review HB 534, provisions of bill, hearing details Review how local fire statutes are organized	Discuss potential policy options with representatives of municipalities that may be affected by the legislation, counties, volunteer fire departments, professional fire departments, fire districts, organizations of fire chiefs, the Montana State Council of Professional Fire Fighters, and the Montana State Firemen's Association; presentations from identified organizations	Progress report, responses to questions raised in November; review revisions to bill draft if one has been requested; comment from interested individuals and organizations; committee discussion, direction for final recommendation	Final review of any legislation, recommendations; comment; final recommendation by committee	
SJR 21 study of EMS and volunteer fire protection systems	Presentation and discussion of study plan; staff to provide background information, summarize previous studies and recommendations, and	Staff to report on findings; presentations or panel discussion from providers, other experts; comment from interested individuals and	Staff report on progress, answers to any questions raised in November; review additional information collected; comment from interested individuals and	Final review of any legislation, recommendations; comment; final recommendation by	

	review contents of resolution; staff to provide statutory context for local fire and emergency service systems; staff to provide information regarding hearings, testimony on the resolution; comment from resolution sponsor and interested individuals and groups; committee discussion	organizations; committee discussion of policy options	organizations; committee discussion, directions to staff for final products or recommendations	committee	
Committee-initiated topics					
TIFs	Review information provided to RTIC and RTIC's study options; determine level of involvement, input		Potential joint meeting with RTIC for Legislative Audit report on TIFs		
Entitlement Share	Determine whether to include topic in work plan and prioritize				
Land Use and Housing (HJR 31)	Review HJR 31; determine goals; determine whether to include topic in work plan and prioritize				

Infrastructure and gas tax revenue use	Refine the type of information requested and expectations; determine whether to include topic in work plan and prioritize	Panel discussion on projects using fuel tax revenue			
Local option tax	Determine whether to include topic in work plan and prioritize				
MSU Local Government Center		Overview, services provided			