



THE INTERIM

October 2012

A monthly newsletter of the Montana Legislative Branch

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The Interim, along with up-to-date information about interim committees, is also available on the Legislative Branch website at leg.mt.gov.

Redistricting Panel Plans Remaining Work for the Year

Although the Montana Districting and Apportionment Commission made giant strides toward completing a legislative redistricting plan when it tentatively adopted 100 state House districts in August, it still has work to do. So the commission will meet again at least once in each remaining month of 2012.

October Conference Call Set

An October teleconference meeting will focus on administrative projects, such as adopting several technical amendments to the 100 House districts created in August. The districts are known as the Tentative Commission Plan. Commissioners will also discuss a process to pair House districts into Senate districts and then assign any “holdover” senators, who are elected in 2012 to a four-year term, to the new districts.

Other agenda topics include formalizing dates for November and December hearings and meetings, as well as determining how the commission will establish written justifications for any deviations from the ideal district populations. The justifications are required by the commission’s adopted redistricting criteria.

The meeting is scheduled for Oct. 25 at 10 a.m. Although the meeting will be held by teleconference, the public is welcome to attend and participate by joining commission staff in Room 172 of the Capitol in Helena. Anyone wishing to provide public comment to the commission must meet in Room 172. The commission cannot accept public comment by telephone.

The meeting will be streamed live on the Internet and broadcast on the Legislature’s public access television network, TVMT. For a list of TVMT channels in your area, please visit www.leg.mt.gov/tvmt.

Public Hearing in November

The commission will take public comment on Senate pairings during an evening hearing in Helena on Nov. 15. The hearing will be held in Room 303 of the Capitol at 6:30 p.m. It’s timed to take place during the same week as legislative orientation.

Suggested Senate pairings will not be available after the November general election because of the need to include assignments of holdover senators in the Senate plan.

The commission also will meet at the end of November to adopt a plan for Senate districts. That meeting is tentatively scheduled for Nov. 30 in Helena.

Public Comment Still Sought

Maps detailing the Tentative Commission Plan are available on the commission's website. The commission continues to accept and encourage written public comment. All submitted comments are copied and distributed to each commissioner, as well as made available on the website.

Written comment may be sent by regular mail to the Districting and Apportionment Commission, Legislative Services Division, P.O. Box 201706, Helena, MT, 59620-1706. Comments also may be sent by e-mail, to districting@mt.gov, or by fax, to 406-444-3036.

Next Meeting

The commission meets next on Oct. 25 at 10 a.m. via conference call. The call will originate in Room 172 of the Capitol. For more information on the commission's upcoming activities, meetings, and maps, visit the commission's website or contact Rachel Weiss, commission staff.

Commission Website: www.leg.mt.gov/districting
Commission Staff: rweiss@mt.gov or 406-444-5367

EAIC Sends Three Bills to Legislature

In wrapping up its 2011-2012 interim last month, the Economic Affairs Interim Committee approved three committee bills for introduction in the 2013 Legislature. Two of the bills affect the committee's work flow in the future, while the third would require workers' compensation for volunteer firefighters and provide a funding mechanism for the coverage.

The committee also forwarded two study reports with recommendations to the full Legislature.

Review of Licensing Boards

House Bill 525, approved by the 2011 Legislature, required the committee to review one-half of the 33 professional and occupational licensing boards this interim and make a recommendation to the 2013 Legislature on whether a board be retained or terminated. The committee's review of 16 licensing boards formed the basis for one of its committee bills and one of its reports. The boards reviewed were those that have been in existence for the longest period of time. The committee recommended continuation of all 16 of the boards.

The committee, however, heard concerns raised either by licensees or members of the public regarding some of the boards. A draft of the final report on the boards included some of the concerns, and the committee urged the boards

that were subjects of the complaints to continue working toward a resolution. Chief among these were the Board of Dentistry, which faces jurisdictional complaints from dental hygienists and denturists, and the Board of Hearing Aid Dispensers, which has had discussions with the Department of Justice about shared prosecutorial duties. The committee also heard a new complaint from the Board of Social Work Examiners and Professional Counselors. Members asked the Department of Labor and Industry, which handles the regulatory duties for the licensing boards, to follow up on the due process complaints.

In addition to a recommendation to revise the process for reviewing the 17 licensing boards not yet studied, the committee adopted as a committee bill LC 352 to terminate the review process in December 2014 rather than December 2018. This change would allow a full review of all 33 boards but not require repetition of the process over the 2015-2018 period.

Other Committee Bills Approved

The other committee bills endorsed at the Sept. 11 meeting were:

- LC 351 (initially labeled LCbnfi) to move monitoring of the Division of Banking and Financial Services to the Economic Affairs Committee from the State Administration and Veterans' Affairs Committee. SAVA monitors all agencies administratively assigned to the Department of Administration, except for Montana State Fund. However, most of the banking and financial services bills considered during a legislative session are heard in the standing business and labor committees, whose members for the most part comprise the Economic Affairs Interim Committee.
- LC 353 (initially labeled LCvlfri) to require workers' compensation for volunteer firefighters and allow counties to pay for the workers' compensation premiums through a permissive levy that is exempt from the limitations on mill levies established in 15-10-420, MCA. Incorporated towns that already provide volunteer firefighters with workers' compensation would be exempt from the permissive levy as long as they provide the insurance.

Final Action on Insurance Exchange Study

The other final report reviewed at the September meeting provides information on health insurance exchanges, both in general and as specifically discussed by the committee over the interim. The committee learned in October 2011 that Montana probably would not be able to implement a state-based health insurance exchange in time to make health insurance policies available for purchase starting on Oct. 1, 2013. The committee thus limited its review of health insurance

exchanges until the U.S. Supreme Court acted on challenges to the constitutionality of the Affordable Care Act. That federal law, approved by Congress in 2010, requires individuals to buy health insurance in 2014 and requires that so-called “exchanges” be operating in each state in order to allow people to compare and buy insurance policies. The federal government will set up exchanges in states that don’t develop their own exchanges.

By late June 2012, when the Supreme Court upheld all but the penalty related to a state’s decision to expand its Medicaid program, the committee had only one meeting left. At that meeting, the committee voted 4-3 to endorse a recommendation “to preserve and exercise Montana’s ability to make choices and decisions regarding the development and implication of the health insurance exchange.”

Other Action and More Information

The committee also decided to support the continuation of all reports and advisory councils that it reviewed pursuant to House Bill 142, which was approved by the 2011 Legislature. HB 142 required each interim committees to assess whether reports and advisory councils within the committee’s purview were necessary. The committee’s decision to support continuation of all advisory councils overturned an earlier recommendation to make optional the convening of an advisory council if the state’s malpractice insurance industry becomes less competitive. As a result, the state’s insurance commissioner will be required to establish an advisory council, as under current law.

Drafts of the committee bills and committee reports are available on the Meeting Materials page of the committee’s website. For more information about the committee’s activities, contact Pat Murdo, committee staff.

Committee Website: www.leg.mt.gov/eaic

Committee Staff: pmurdo@mt.gov or 406-444-3594

Final ELG Meeting Touches on Many Topics

The Education and Local Government Interim Committee covered a wide range of topics during its final meeting of the 2010-2011 interim on Sept. 13.

Education-related agenda items included:

- a report from an education policy specialist with the National Conference of State Legislatures, who discussed student achievement and performance measurement in charter schools;
- a final K-12 finance training presentation from the Legislative Fiscal Division’s Jim Standaert, who reviewed the funding formula, delved into school district general

funds, and explained the policy implemented by Senate Bill 329, the 2011 Legislature’s wide-ranging education funding and policy bill;

- cost estimates developed by the Legislative Fiscal Division for implementing Common Core State Standards and Chapter 55 Accreditation Standards adopted by the Board of Public Education and public comment associated with those reports;
- a variety of reports from the Office of the Commissioner of Higher Education on the Board of Regents’ Affordability Task Force, fiscal year 2012 enrollment in the Montana University System, enrollment trends, and Board of Regents’ University System Initiatives; and
- a discussion on the requirement in 20-9-309(5), MCA, that the Legislature authorize a study of K-12 funding at least every 10 years following April 7, 2005. The committee voted 7-5 to recommend the following study criteria if such a study occurs during the 2012-2013 interim:
 - » that the existing Shared Policy Goals established between the Board of Public Education, the Superintendent of Public Instruction, and the Legislature be used as a basis for creating broad metrics that will align to the goals and lead to agreed-upon funding recommendations for implementation; and
 - » that funding considerations reflect the realities of inflation in the education sector and that they factor in the costs of agreed-upon changes in education policy.

Agenda items related to local government and other subject areas in the committee’s jurisdiction were:

- presentation of “Montana’s Shared Heritage: First Biennial Report on the Status, Condition, and Stewardship of Montana’s State-owned Heritage Properties,” which the State Historic Preservation Office is required by law to prepare;
- a report from the Montana League of Cities and Towns on its legislative initiatives and plans for the 2013 session;
- completion of the House Joint Resolution 39 study of the subdivision for lease or rent exemption. The committee considered six potential bill drafts but decided not to request any for submission to the 2013 Legislature.
- a report on the ongoing 2012 wildland fire season and costs accruing to the state. Bob Harrington, administrator of the Department of Natural Resources and Conservation Forestry Division, commented on the impact the fire season has had on local fire departments

and local governments. He said the state-county cooperative program in which DNRC provides equipment to local fire departments continues to be successful. He also provided the following statistics, current as of Sept. 10:

- » 1,697 fires had ignited in Montana;
- » 909,949 acres had burned;
- » 106 of the fires were more than 100 acres in size;
- » 110 homes were destroyed; and
- » state costs totaled \$43 million and were anticipated to rise.

Other Action and More Information

ELG also approved the outline and proposed plan for the final report, which will highlight the committee's recommendations, review the committee's activities, and include a number of relevant documents.

For more information, visit the committee's website or contact Leanne Kurtz, committee staff.

Committee Website: www.leg.mt.gov/elgic
 Committee Staff: lekurtz@mt.gov or 406-444-3593

ETIC Approves Three Committee Bills

The Energy and Telecommunications Interim Committee will bring three pieces of legislation before the 2013 Montana Legislature.

The committee met Sept. 7 and wrapped up its interim work. Members completed their review of Southern Montana Electric Generation and Transmission Cooperative Inc. and its recent bankruptcy and reorganization. The committee has proposed legislation that imposes voting requirements on rural electric cooperatives prior to making certain decisions. The legislation also adds a series of disclosure requirements to increase transparency for rural electric cooperatives in Montana. The draft is LC 346.

The committee also approved legislation to expand the definition of "eligible renewable resource" in Montana's renewable portfolio standard to include hydroelectric project expansions. The ETIC brought a similar proposal before the 2011 Legislature, which approved the measure. However, Gov. Schweitzer vetoed the bill. The committee agreed to amendments proposed by the Public Service Commission that clarify how additional hydroelectric capacity is calculated. The committee also agreed to make the legislation retroactive, so expansions completed after Dec. 31, 2010, would be included. The draft is LC 345.

After spending a portion of the interim learning about renewable resources, the committee also agreed to a related study resolution. The 2005 Legislature passed the Montana Renewable Power Production and Rural Economic Development Act, and certain electric utilities and suppliers have had to meet the standard since January 2008. Beginning in 2015, and in each succeeding year, a public utility and competitive electricity supplier in Montana will be required to procure a minimum of 15 percent of its retail sales of electrical energy from renewable resources. The ETIC proposal requests an interim study to analyze the economic and environmental impacts of the regulation. The study also would require a review of the law's impact on Montana consumers. The study resolution is LC 347.

Review of Federal Matters

The committee also agreed to weigh in on two federal matters by sending letters to the U.S. Department of Energy and to the Bureau of Land Management.

Rural electric cooperatives shared their concerns about federal plans to update government-owned portions of the electric grid. A federal plan was unveiled in March, and rural electric cooperatives in Montana are concerned that the proposal will translate to higher costs for its members. The ETIC agreed to write a letter to the DOE echoing the concerns of the rural electric cooperatives.

Throughout the interim, the committee tracked rulemaking related to hydraulic fracturing. The BLM has proposed rules for hydraulic fracturing operations on federal and Indian land. Montana has adopted rules to address issues of concern related to hydraulic fracturing in Montana. The ETIC raised several concerns about the federal proposal and its impact in Montana. The committee asked BLM to withdraw the proposed rules and rely on the individual states to regulate oil and natural gas production.

The committee also learned more about workshops held this summer by the PSC to discuss and potentially revise the commission's practices for requiring utilities to prepare and submit resource planning and procurement plans. The planning is required of regulated utilities in Montana. If revisions to the procurement and planning process are made, the PSC will engage in rulemaking. Committee members asked that they be provided with information about potential changes and rulemaking. They also indicated that if rules are pursued, the committee may request an additional meeting to analyze and discuss the rulemaking.

For more information, visit the committee's website or contact Sonja Nowakowski, committee staff.

Committee Website: www.leg.mt.gov/etic
 Committee Staff: snowakowski@mt.gov or 406-444-3078

EQC Approves Bill for State Parks and Recreation Board

After a year's worth of study, the Environmental Quality Council gave final approval on Sept. 12 to a bill draft that would change the way state parks and certain recreational programs are administered in Montana.

LC 364 (formerly known as LC 9000) would create a state parks and recreation board separate from the current Fish, Wildlife, and Parks Commission. The board would oversee and govern the state parks system and boating, off-highway vehicle, and snowmobile regulation and grant programs.

LC 364 grew out of the EQC's work on the House Joint Resolution 32 study of state parks, outdoor recreation, and heritage resource programs. Public support expressed to the EQC for creating a separate state parks board was two fold:

- to increase the amount of time spent discussing parks and recreational policy issues; and
- to insulate state parks from contentious wildlife management issues, such as bison and wolves, that have cast the Department of Fish, Wildlife, and Parks in a harsh spotlight.

The EQC also approved a second bill draft based on the HJR 32 study. LC 363 (formerly known as LC 9010) requests further study of ways to improve the marketing, management, operation, maintenance, and funding of state-owned sites at Virginia City, Nevada City, and Reeder's Alley in Helena. All are currently administered by the Montana Heritage Preservation and Development Commission, which has been struggling financially. Earlier in the interim, the EQC considered moving the commission's responsibilities to the FWP Parks Division, but ultimately decided against that proposal.

The EQC also advanced three bill drafts related to its review of statutorily required agency reports and advisory councils pursuant to House Bill 142, which was approved by the 2011 Legislature. LC 360 (formerly LC 9022) would eliminate the Alternative Livestock Advisory Council. LC 361 (formerly LC 9021) would eliminate the Air Pollution Advisory Control Council, while LC 362 (formerly LC 9020) would eliminate the requirement that the Department of Natural Resources and Conservation submit a progress report for the designation of wildland-urban interface parcels

Agency Legislative Requests

The EQC also reviewed and approved four executive agency legislative proposals, summarized below, for early drafting and introduction in the 2013 legislative session.

Department of Environmental Quality

- Revise response times for repeatedly deficient applications for opencut mining permits (LC 369)

Department of Fish, Wildlife, and Parks

- Revise youth combination hunting laws (LC 366)
- Remove the termination date on the good neighbor policy (LC 367)
- Revise wolf hunting laws (LC 368)
- Restore Dingell-Johnson fish restoration and management funding assent language (LC 370)

Agency descriptions for the proposed bill drafts are available on the Meeting Materials page of the EQC website, under the listing for the Sept. 12-13 meeting.

Questions and comments regarding the EQC and its work may be directed to staffers Joe Kolman and Hope Stockwell.

Council Website: www.leg.mt.gov/eqc

Council Staff: jkolman@mt.gov or 406-444-3747

hstockwell@mt.gov or 406-444-9280

LJIC Approves Wide Range of Bills

The Law and Justice Interim Committee completed its work for the 2011-12 interim on Sept. 7, after recommending 17 bills for introduction in the 2013 Legislature. The bills stem from the committee's Senate Joint Resolution 29 study of restorative justice, its review of statutorily required advisory councils and reports, and its discussion of topics raised by members.

The bills are summarized below.

- LC 241 would amend emergency detention standards, similar to House Bill 365, which was introduced but not approved in the 2011 legislative session.
- LC 242 would eliminate a Department of Justice advisory council and required report, as well as clarify the duties of another DOJ advisory council and the requirements for a related report.
- LC 243 would eliminate the requirement that a racial profiling report be provided to the Legislature.
- LC 244 would authorize judges to require a restorative justice program as a condition of a deferred or suspended sentence.
- LC 245 would establish a restorative justice grant program with the Montana Board of Crime Control.

- LC 246 would require the Department of Corrections to provide victim impact panels in correctional facilities.
- LC 247 would require the Department of Public Health and Human Services to provide records related to child abuse and neglect cases to a county attorney upon request and to notify law enforcement if child abuse or neglect is suspected and involves certain crimes.
- LC 248 would require a statewide jail suicide prevention program and provide funding.
- LC 249 would require DPHHS to establish a statewide jail suicide prevention program.
- LC 258 would require that a condemnee in an eminent domain action be provided with a statement of the condemnee's rights.
- LC 300 would establish the Corrections Advisory Council as a statutorily required committee.
- LC 301 would eliminate a required report on the distribution of attorney license taxes.
- LC 302 would eliminate a required report on health care costs for medical parolees.
- LC 325 would authorize a study of the Board of Pardons and Parole.
- LC1j5D3 would provide for a re-entry task force and project for incarcerated offenders. An official LC number will be assigned at a later date.
- LC1j6B would clarify that information on a concealed weapon permit application is confidential criminal justice information. An official LC number will be assigned at a later date.
- LC1j08 would update the laws related to the Criminal Intelligence Information Advisory Council and to criminal intelligence information. An official LC number will be assigned at a later date.

For more information on the committee's activities, visit the committee's website or contact Dave Bohyer, committee staff.

Committee Website: www.leg.mt.gov/ljic

Committee Staff: dbohyer@mt.gov or 406-444-3592

Audit Committee to Meet in October

The Legislative Audit Committee will meet Oct. 26 in Helena to review recent audits of state programs and services. The Legislative Audit Division anticipates reports on the following topics.

Financial Compliance Audits

- Department of Administration
- Department of Corrections
- Department of Military Affairs
- Department of Natural Resources and Conservation
- Department of Revenue
- Office of the Commissioner of Political Practices
- Office of the Public Defender

Performance Audits

- Administration of Montana's Unemployment Insurance Program (Department of Labor and Industry)
- Highway Safety Improvement Program (Department of Transportation)
- One-Stop Business Licensing Program (Department of Revenue)

Follow Ups to Previous Audits

- Brand Re-record (Department of Livestock)
- Combined Healthcare Information and Montana Eligibility System for Medicaid, CHIMES – Medicaid, (Department of Health and Human Services)
- Department of Military Affairs Contracting
- Insure Montana (State Auditor)
- Sexual or Violent Offender Registry (Department of Justice)
- Water Rights Adjudication (Department of Natural Resources and Conservation, Montana Water Court)

The Legislative Audit Division provides independent and objective evaluations of the stewardship, performance, and cost of government policies, programs, and operations. The division is responsible for conducting financial, performance, and information system audits of state agencies or their programs, including the Montana University System.

To report suspected improper acts committed by state agencies, departments, or employees, e-mail the division at LADHotline@mt.gov, or call the division fraud hotline at 800-222-4446 or 444-4446 in Helena.

Next Meeting

The Oct. 26 meeting will be held in room 172 of the Capitol in Helena. For more information on the meeting and other committee activities, visit the Legislative Audit Division website or contact the division.

Division Website: www.leg.mt.gov/audit

Division Contact: 406-444-3122

Council Continues Planning for 2013 Session

The Legislative Council continued to plan for the upcoming legislative session when it met in late August.

In addition to reviewing the proposed budget for the legislative branch, the council took a number of steps toward firming up policies and procedures for the 2013 Legislature, including:

- reviewing drafts of proposed legislative rules developed by the Rules Subcommittee. The draft rules are posted on the council's website for all legislators to review. The council will adopt the bill drafts on Nov. 13 in order to submit them to the Rules Committees for consideration on Dec. 3.
- developing plans for a leadership orientation session to be held on Dec. 3;
- working on a technical note on legal review to present a uniform approach to the statutorily required legal review of bills. The council will consider the form and a process during its Nov. 13 meeting.
- adopting the same standing committee structure for the 2013 legislative session as was in place during the 2011 session;
- watching a demonstration of the new audio and video streaming capability that staff is developing for the session;
- reviewing proposals by Sen. Dave Wanzonried for initiatives to provide legislators with ways to remain healthy during the fast-paced legislative session; and
- hearing an update on the security plan for next session. A contract has been entered with the Helena Police Department for a full-time officer dedicated to the Legislature and Capitol building from Oct. 1, 2012, through June 30, 2103. This pilot project will be reviewed in February so the Legislature can decide whether to continue the officer's contract and position during the next biennium and can decide on the administrative responsibility for that position.

Budget, Bill Drafts Approved

The council heard detailed information on the preliminary legislative branch budget for the 2015 biennium. Within the budget discussions, the council adopted the Legislative Branch Computer System Plan for the biennium and accepted the proposed information technology budget as a recommendation to be considered within the full budget. The council recommended that \$500,000 of the budget related to information technology and TVMT be designated as one-

time-only funding for the purposes of considering the elements that may be non-recurring capital improvements.

The 2015 biennial budget was approved and submitted to the Office of Budget and Program Planning, including the \$500,000 of one-time-only requests. The budget request represents a 5.76 percent increase over the 2013 biennial appropriations, with the increase occurring predominantly in the operations budget. Without the one-time-only funding for IT and TVMT, the budget is comparable to the 2010-2011 base budget.

Other budget action included approval of the submission of a new proposal for discretionary funds to assist moving legislative branch staff pay to the current average of 87% of market. That coincides with the average percent of pay for executive branch employees compared to the 2012 market midpoints.

The council also approved bill draft requests for:

- the feed bill (traditionally House Bill 1, funding the operations of the Legislature);
- a K-12 funding study;
- the Code Commissioner bill, which makes technical changes to the Montana Code Annotated; and
- repeal of the Legislative Intern Program.

Other potential legislation was deferred until November as was the potential need to use the IT Reserve Account and, for inclusion in the feed bill, the amount and use of the IT allowance and a potential reallocation of funds to provide for legislator communications.

In Other Business

The council also discussed the potential need for the Legislature to obtain additional information in order to make a decision about expanding the Medicaid program in 2014 as allowed under the Patient Protection and Affordable Care Act. That federal law called for the expansion of the Medicaid program in 2014 to anyone earning up to 138% of the federal poverty level. However, the U.S. Supreme Court in June removed a penalty for states that fail to expand their programs as envisioned under the law. The ruling essentially made the expansion of the program an option – rather than a requirement – for all states. The Legislative Services Division and Legislative Fiscal Division staffs will determine how much information they can provide and, if needed, will prepare a proposal to receive outside assistance in obtaining the necessary information.

The council also heard a presentation on a land transfer between the numerous departments of state government and Lewis and Clark County adjacent to the county fairgrounds in

Helena. The council approved the notification of the Board of Land Commissioners that consultation, as required by 77-2-351, MCA, has occurred.

2013 Session Information

Materials for the 2013 session are posted on the legislative website, www.leg.mt.gov, and can be found by clicking on “Sessions” in the menu on the left-hand side of the page and then selecting 2013 from the drop-down menu. The tentative 2013 session calendar, information regarding bill drafting and session employment, and a form to submit housing for legislator consideration are posted, as are dates for caucuses, orientation, and continuing education sessions. Caucuses are scheduled for Nov. 14, and orientation will continue through Nov. 16. All legislators are invited to attend the legislator orientation dinner on Nov. 14, intended to give the members a chance to meet other lawmakers outside of their own parties and respective chambers. Training for presiding officers will be held on Dec. 3, when the Rules Committees also will meet. The first day of the session is Monday, Jan. 7, 2013.

LAWS, or the Legislative Automated Workflow System, is a comprehensive online database containing the text and status of proposed legislation, committee hearing schedules, daily agendas, and a variety of other legislative information. Hold-over senators and candidates who are running unopposed for legislative seats are eligible to submit bill draft requests before the Nov. 6 election. By mid-September, more than 400 requests had been submitted and entered into LAWS.

To view information about the bill draft requests and the current status of any request, visit the the legislative branch website at www.leg.mt.gov and look for the link to the 2013 LAWS Database under the “What’s New” heading. The full text of a bill draft request is posted as soon as it has completed the drafting process.

For further information about LAWS, contact lawswebmaster@mt.gov. For information on a specific bill draft, call the Legislative Services Division at 406-444-3064.

Next Meeting

The council will hold a half-day meeting on Nov. 13; some items will be discussed in conjunction with the Legislative Finance Committee.

For more information and to view agendas, minutes, and meeting materials, visit the council’s website or contact Legislative Services Executive Director Susan Byorth Fox.

Council Website: leg.mt.gov/legcouncil

Council Staff: sfox@mt.gov or 406-444-3066

LFC Plans Pension Review in November

The Pew Center on the States and the Laura and John Arnold Foundation recently joined forces to offer assistance to states examining options for comprehensive pension reform. Montana legislative leadership requested assistance from the foundations in evaluating the issues surrounding Montana public pension plans and was recently notified of acceptance.

The first project for the foundations is to quantify the size and nature of the problem. This would include such items as quantifying the underfunding, projecting retirement costs into the future, recording the history behind the issues, and documenting the risk of taking no action. A presentation of this information is tentatively planned for the Nov. 13 meeting of the Legislative Finance Committee. An evening presentation also is planned for other legislators, stakeholders, and the general public.

Update on Issues Facing the 2013 Legislature

The September issue of *The Interim* included a Legislative Fiscal Division staff summary of major items that are likely to be discussed during the 2013 session as lawmakers set the state budget. The Finance Committee received more information on many of the topics at its meeting in late September. The information also is posted on the committee’s website and includes:

- an update on the costs of wildland fires in the current biennium;
- a general budget update covering fiscal year end for 2012 and the 2013 biennium;
- an analysis of the volatility of revenue sources and unanticipated expenditures, including potential policy choices to address the ups and downs of state finances and provide more stability in lean times; and
- an analysis of personal services issues that looks at the effects that a lack of inflationary pay increases has had on recruitment and retention for state positions and at the recruitment, retention, and budget impacts of the governor’s approval of pay increases in the executive branch earlier this year.

Next Meeting

The committee meets next on Nov. 13 in Room 102 of the Capitol. For more information on the committee’s activities and upcoming meeting, visit the committee’s website or contact Legislative Fiscal Analyst Amy Carlson.

Committee Website: www.leg.mt.gov/lfc

Committee Staff: acarlson@mt.gov or 406-444-2986

RTIC Approves Bill to Modify Property Revaluation

The Revenue and Transportation wrapped up much of its interim work at its Sept. 13-14 meeting, including accepting the final report on the House Joint Resolution 13 study of the individual income tax. The reports for the Senate Joint Resolution 17 study of centrally assessed and industrial property and the SJR 23 study of tax exemptions for nonprofits will be updated to reflect actions at the September meeting and then considered by the committee in November.

Action Related to Legislation

Staff presented two potential committee bills requested at the July meeting. Members approved one of the bills for introduction in the 2013 Legislature. The bill would modify property tax revaluation for class 3, 4, and 10 property by requiring the next valuation cycle to last two years and then be followed by annual revaluation. However, the committee did not advance a bill to require periodic review of property exempt from the property tax.

The committee also asked staff to draft four bills for consideration in November. The bills would:

- correct the distribution to a Missoula tax increment financing district;
- correct language related to the corporation license tax in 15-6-138, MCA;
- remove obsolete references to the local government severance tax; and
- repeal tax reductions for value-added manufacturing that have no effect because of current business equipment tax rates.

The committee also approved early drafting of the Department of Transportation's proposed agency bill to allow use of the construction manager/general contractor contract method, after deferring action at the July meeting. Three Department of Revenue requests that had been deferred from July were also approved. The agency bills would:

- create a brew on-premise license;
- revise nonprofit tax record laws; and
- standardize individual liability for trust taxes.

The Department of Revenue also requested a bill draft to update the tax haven countries listed in 15-31-322, MCA, but the request to authorize early drafting of that agency bill failed on a tie vote.

Agency Monitoring Efforts

Transportation Director Tim Reardon updated the committee on the implementation of the recently passed federal highway legislation. Revenue Director Dan Bucks discussed the property tax insert for state income tax forms and items related to the Liquor Control Division, while a department economist discussed the implementation of Senate Bill 372. Approved in 2011, that bill reduced the business equipment tax.

Bucks also provided a response to information received by the committee at the July meeting relative to its SJR 17 study. The response included comments about valuation of oil refineries, a reply to the report on centrally assessed property presented by Kristen Juras, and an analysis of tax shifts.

Revenue Estimate

The committee also began work to fulfill its duty to adopt a revenue estimate at the November meeting. Representatives from IHS Global Insights provided an overview of the U.S. and Montana economic outlook. Dave Pursell of Tudor, Pickering, Holt & Co. gave an overview of the oil and gas industry. The committee also heard a Montana economic outlook from Paul Polzin of the University of Montana Bureau of Business and Economic Research, an overview of Montana labor and business trends from Barbara Wagner of the Department of Labor and Industry, an agricultural outlook from agricultural economist Myles Watts, and the Chamber of Commerce perspective from Jon Bennion.

Next Meeting

The committee meets next on Nov. 19 in Room 137 at a time to be announced. For more information on the committee's activities and upcoming meeting, visit the committee's website or contact Megan Moore, committee staff.

Committee Website: www.leg.mt.gov/rtic

Committee Staff: memoore@mt.gov or 406-444-4496

Efficiency Committee Reviews Budgeting Processes

The Select Committee on Efficiency in Government heard information on state budgeting processes when it met in September. The committee also approved two proposals related to funding of certain Medicaid mental health services.

The discussion of priority budgeting was one of several informational presentations on the committee's agenda during its two-day meeting.

The committee was introduced to the topic by Taryn Purdy, principal analyst with the Legislative Fiscal Division. She provided overviews of *Montana's State Budgeting Process* and of *Priority Budgeting and How Priority Budgeting Compares to and*

Contrasts with Current Budgeting. Carl Graham, CEO of the Montana Policy Institute in Bozeman, and Tara Veazey, executive director of the Montana Budget and Policy Center in Helena, presented their respective perceptions of and insights on priority budgeting.

The material presented by each of the panelists is available on the committee's website.

Medicaid, Health Care Discussed

Also at their two-day meeting, committee members heard an informational presentation on the outlook and options for Medicaid expansion following the U.S. Supreme Court ruling on the Patient Protection and Affordable Care Act. The committee received a copy of information on the effects of the expansion in Montana that was prepared by Gregg Davis of the University of Montana Bureau of Business and Economic Research for the Children, Families, Health, and Human Services Interim Committee in August. The committee also heard from Laura Summers and Cheryl Smith of Leavitt Partners and Jim Hardy of Deloitte about their experience with and insights about the potential expansion of Medicaid.

The committee took a late interest in the Montana Developmental Center, the state-run residential facility for developmentally disabled adults. Rob Miller, associate analyst with the Legislative Fiscal Division, provided an overview of the facility. His informational presentation was followed by observations and insights from MDC Superintendent Gene Haire and from Bernadette Franks-Ongoy, executive director of Disability Rights Montana.

Staff also provided a summary on the status of Montana's reciprocity with other states regarding the licensing of health care professionals. Basically, state law allows for Montana's health care licensing boards and other boards to enter into reciprocity agreements with other states to recognize the licenses issued by those states. However, Montana doesn't have a reciprocity agreement with any other state for the licensing of any of the health care professions.

Mental Health, IT Revisited

At the request of Sen. Dave Wanzenried, John Lynn of the Western Montana Mental Health Center presented a proposal to appropriate money to increase the reimbursement rates for children's Medicaid mental health targeted case management services. A companion proposal would create a statutory advisory committee to examine cost-based reimbursement for both children's and adult Medicaid mental health targeted case management services. Following discussion of the subject, the committee agreed to recommend both proposals to the 2013 Legislature.

The committee also revisited national trends in information technology in a presentation by Jessica Blume of Deloitte.

She gave examples of the ways in which information technology has allowed for significant productivity enhancements. She also discussed developing trends with IT hardware and software.

Legislative Proposals on Tap

As of its Sept. 11 meeting, the committee had recommended 10 proposals to the 63rd Legislature as follows:

- LC 123 (formerly LCSC03), to create a Medicaid pay-for-performance pilot project;
- LC 124 (formerly LCSC02), to require the Department of Public Health and Human Services to measure outcomes for children's mental health services;
- LC 125 (formerly LCSC01), to revise requirements for the 72-hour presumptive eligibility for mental health crisis stabilization services;
- LC 150 (formerly LCSC12), to revise the Medicaid application process;
- LC 151 (formerly LCSC10), to create a penalty for people who receive assets from someone who is improperly transferring assets in order to qualify for Medicaid coverage of long-term care costs;
- LC 259 (formerly LCSC21), to request an interim study to investigate electronic records management by state and local government;
- LC 260 (formerly LCSC20), to clarify the authority of local government to store electronic documents off-site;
- LC 261 (formerly LCSC22), to revise statutory requirements for notarization of certain documents;
- LC 348 (formerly LCSC13), to appropriate funds for increasing reimbursement rates for children's Medicaid mental health targeted case management services; and
- LC 349 (formerly LCSC14), to create an advisory committee on cost-based Medicaid mental health targeted case management rate reimbursement.

Next Meeting

The committee scheduled a final, brief meeting for Nov. 14, in conjunction with the Legislature's organizational caucuses. Members will review the draft final report of the committee's activities. The meeting will convene at 8 a.m. in Room 102 of the Capitol.

For more information on the committee's upcoming meeting and its activities, visit the committee's website or contact Dave Bohyer, committee staff.

Committee Website: www.leg.mt.gov/sceg

Committee Staff: dbohyer@mt.gov or 406-444-3592

State-Tribal Panel Approves Bill, Letters

At its final meeting on Sept. 7, the State-Tribal Relations Interim Committee approved a bill for the 2013 legislative session and agreed to send letters to federal and state officials on three different topics.

The committee discussed two potential legislative proposals related to tribal involvement in state actions affecting tribes and approved one of the bills for introduction in the 2013 Legislature.

LC 5544 would have addressed the process of consulting tribes about heritage properties that might be substantially impacted by state actions or actions assisted or licensed by the state. The committee chose not to act on the bill, but did approve LC6543 to amend the guiding principles for developing or putting in place policies or administrative rules that have tribal implications.

Current state law provides, in 2-15-142, MCA, that a state agency should consider the principles delineated in that section. The committee bill, unanimously passed, replaces the phrase “should consider” with a requirement that a state agency document the ways in which it has considered the guiding principles when taking actions that could affect a tribe.

Letters Approved

The committee heard about the emergency response to the recent fires in southeastern Montana from officials involved in local, statewide, and federal disaster response. Much of the discussion focused on the availability and quality of telecommunications for the first responders in Indian country. The committee agreed to prepare a letter for Bureau of Indian Affairs officials urging them to help the first responders at Lane Deer acquire a generator for their telecommunications.

The committee also decided to send a letter to Montana’s congressional delegation urging that certain transportation programs for veterans be expedited and refined in order to better serve Indian veterans and other veterans facing challenges of distance and mobility. The letter also will ask that transportation vans be fully accessible for individuals with disabilities, that the vans have fully trained and fully paid drivers, that the computer program used for transport routing and tracking be enhanced, and that the transportation funding promised under the Rural Health Care Act be provided.

The committee members heard from several experts on the matter of extending full faith and credit to tribal court judgments. Members passed a motion to work with the attorney-advisor of the Fort Peck Tribal Court on a committee letter to the Montana attorney general urging that office to consult with tribes on the creation of standardized forms that both tribal and state courts could recognize in child protection

cases. The committee declined to vote on a potential committee bill, LC 7001.

Contract Process Discussed

Committee members also heard about the handling of a Family Economic Security workforce training contract by the Department of Public Health and Human Services. The contract was funded with federal Temporary Assistance for Needy Families (TANF) funds. After a presentation from the TANF program manager and discussion of letters submitted by other parties, the program manager said her office would look at the contract matter and other potentially similar situations to ensure that contracts are awarded with the appropriate level of tribal consultation.

For more information on the committee’s activities, visit the committee’s website or contact Casey Barrs, committee staff.

Committee Website: www.leg.mt.gov/tribal

Committee Staff: cbarrs@mt.gov or 406-444-3957

Water Committee Forwards Three Bills

The Water Policy Interim Committee is proposing three bills to the 2013 Legislature, including two that address the long-running controversy over water wells that are exempt from permitting.

The exemption allows an appropriation of water to bypass an evaluation to ensure that new uses of water don’t affect existing water users, such as irrigators. An exempt well may pump up to 35 gallons per minute as long as the annual volume of water does not exceed 10 acre-feet.

Both the amount of water allowed and the use of the wells in residential developments are controversial topics.

The debate also has focused on statutory language that says a “combined appropriation” of two or more wells exceeding the limit requires a permit. “Combined appropriation” is not defined in law. That is left instead to administrative rules, which explain the term as “an appropriation of water from the same source aquifer by two or more ground water developments that are physically manifold into the same system.”

In recent years, the Legislature has tried to change the exemption, including codifying the administrative definition of combined appropriation. The rules also have been challenged from the perspective that the intent of combined appropriation extends beyond just two or more wells connected by a pipe to an entire project, such as individual wells in a subdivision.

None of the attempts succeeded.

At its final meeting in September, the WPIC voted 7-2 in favor of LC8015 to limit the exemption to 20 gallons per

minute and 1 acre-foot annually in “stream depletion zones.” These zones would be created by administrative rule. The zones could only exist in areas where hydrogeologic data exists and must be within closed basins, areas mostly in western Montana where most new surface water appropriations are banned and mitigation is often required for new ground water uses.

The boundaries of the depletion zone on either side of a stream would be determined by running a hydrogeologic model that would gauge the effect of a well on a stream both by distance and over time.

The committee also voted 7-1 to introduce LC8013 to define a combined appropriation as “an appropriation of water from the same source aquifer by two or more wells or developed springs that are physically connected into the same system.”

The committee considered, but did not advance, two other bills dealing with exempt wells. The bills were revisions of proposals the committee discussed earlier in the year. Both drafts limit the use of the exemption in closed basins.

LC8011 would have required public water and sewer systems – rather than individual wells and septic systems – in subdivi-

sions of 20 or more lots that have an average lot size of 3 acres or less. For lots in new subdivisions not covered by that provision, the owner would have been allowed an individual water well that pumped 10 gallons a minute or less and consumed less than 1 acre-foot a year.

The other draft, LC8012, would have limited subdivisions in those basins to a total appropriation of water of 35 gallons per minute up to 10 acre-feet a year, no matter the number of wells.

The committee did advance LC8010, a bill draft to clarify the taxation and ownership of river channels changed by avulsion, which is a sudden and perceptible change in the course of a river or stream that results in the creation of a new river or stream channel.

For more information on the committee’s activities, visit the committee’s website or contact Joe Kolman, committee staff.

Committee Website: www.leg.mt.gov/water

Committee Staff: jkolman@mt.gov or 406-444-3747

The Back Page

The Specter of Child Abuse and Neglect

By Casey Barrs
Legislative Research Analyst

This year the Children, Families, Health and Human Services (CFHHS) Interim Committee undertook a study of childhood trauma. The impetus for the study came from Senate Joint Resolution 30, which was approved by the 2011 Legislature and ranked relatively high among the successful study resolutions. The ranking indicated bipartisan interest in learning more about the effects of childhood trauma, including the potential lifelong effects on an individual and the potential long-term effects on society.

Childhood trauma is understood as a range of early experiences that include being abused or neglected, witnessing domestic violence, or growing up with substance abuse, mental illness, parental discord, or crime in the home. These traumatic events are believed to correlate to numerous health and social problems throughout an individual’s lifespan. “These problems are a “Who’s Who?” list of problems that [later] encompass the priorities of many agencies, public and private, that are working to prevent and treat a vast array of society’s difficulties”. [Anda, 2009]

Childhood trauma literature contains a recurrent theme of, “You can pay now, or pay more later.” Indeed, those who work in the field say that of the rates of return to human development investment across all ages, the most pronounced benefits are in the preschool years. That is to say, many argue that early intervention can have a big impact both in terms of prevention and in avoiding exponentially higher treatment costs later in a person’s life.

Against this backdrop, the matter of childhood trauma came before CFHHS.

Understanding Adverse Childhood Experiences

In a sense, the existence and the challenges of childhood trauma seem not to be new news. Indeed, it is almost a truism that experiences early in life can shape one for a lifetime. But new science and science-based practice is now available to inform how society and government agencies respond to childhood trauma.

Research shows that a range of negative events and conditions can, especially from birth to 3 years of age, stunt and alter neurological development. The “wiring” of an infant’s or child’s brain is physically affected in ways that “program” that young person’s approach to relationships and to adaptive responses to life’s circumstances for years to come. The coping practices formed in these years can be just the beginning of a chain of public health hazards: alcohol and drug abuse; behavior fostering unintended pregnancy and the transmission of HIV/AIDS; smoking that leads to pulmonary disease; depression; suicide; reduced worker performance; diabetes, hypertension; anxiety disorders and more.

One classification of the events and conditions associated with childhood trauma that has gained considerable credence in the last several years is that of “Adverse Childhood Experiences,” or ACEs. Many people may have instinctively believed that a child who experiences a high number of traumatic events may experience more serious and long-lasting effects than a child who experiences fewer such events. However, longitudinal studies now empirically show this to be true. The ACE study is an ongoing collaboration between Kaiser Permanente’s Health Appraisal Center and the U.S. Centers for Disease Control and Prevention.¹

The initial breakthrough ACE studies conducted in the late 1990s included 17,337 adults and assessed eight adverse childhood experiences to determine how those experiences affected a person later in life.

The ACE study places adverse events into the categories shown in the table below.

Category	Type of Event
Abuse	<ul style="list-style-type: none"> • Emotional Abuse • Physical Abuse • Sexual Abuse
Neglect	<ul style="list-style-type: none"> • Emotional Neglect • Physical Neglect
Household Dysfunction	<ul style="list-style-type: none"> • Witnessing Domestic Violence • Alcohol or Other Substance Abuse in the Home • Mentally Ill or Suicidal Household Members • Parental Marital Discord • Crime in the Home

The ACE study showed that these experiences, especially when clustered, correlated to many medical conditions and public health concerns. The study results have caused many who work with children to view the subject in a more integrated way. As a result, they have taken steps to work across disciplines and across the continuum of treatment options in a more coherent manner.

Both national and state-based practitioners conveyed this message to the committee as members conducted the SJR 30 study. The committee also was informed of numerous evidence-based interventions underway in Montana and nationwide. From those examples came some recurrent themes. These emphasized the importance, in treatment, of one-on-one relationships between a child and adult, of family-based interventions, of community-based support and coordination, and of culturally appropriate approaches, particularly on Indian reservations.

Reviewing Systems of Response

As the committee turned its attention from the descriptive to the prescriptive, it sought to learn about how the state Department of Public Health and Human Services (DPHHS) responds to cases of reported child abuse and neglect. The committee’s meetings occurred not long after the deaths of several young Montana children due to child abuse. DPHHS representatives spoke of steps that the agency has taken in the past year pertaining to:

- providing increased feedback to specified professionals and officials who are required by law to report suspected abuse or neglect;
- making changes in the department’s centralized system of receiving reports of possible abuse or neglect from the public at large, including measures to improve responsiveness by integrating the function with field operations, refining the information-gathering process, and providing more staff members for the job;
- strengthening the use of Multidisciplinary Teams (MDTs) and Child Protection Team (CPTs) and the use of team decision-making in handling cases; and
- improving coordination with other community partners, such as law enforcement, county attorneys, medical providers, schools, and public health agencies.

The committee pursued discussion of whether still more systemic reform might be needed. It broached questions that are heard in comparable discussions across the country when systems of response to child abuse and neglect are raised.

¹ For more information on the ACE studies, refer to Filetti, Anda, Nordenberg, et. al., “Relationship of Childhood Abuse and Household Dysfunction to Many of the Leading Causes of Death in Adults,” *American Journal of Preventive Medicine*, Volume 14, Number 4, 1998.

These questions and the related discussion broke down as follows:

- *Would more localized and more interdisciplinary approaches fare better than the current system?* The historical response to this question is that reporting intake used to be localized but, as a result of perceived shortcomings, was purposefully centralized. And interdisciplinary approaches, which are becoming more favored in view of the new science on adverse childhood experiences, are found throughout the state's child protection system, particularly in its use of MDTs, CPTs, and the team decision-making process.
- *Would more oversight mechanisms ensure more efficiency and accountability?* Some study participants believed that additional oversight would make DPHHS more responsive and accountable. However, others noted that a number of oversight entities already exist with the teams, committees, centers, boards, and councils currently in place.
- *Would requirements of certification for caseworkers and social workers help further professionalize their work?* Some study participants suggested that requiring licensure of caseworkers could help narrow the risk of lapses that could result in children "disappearing" in the system. The valid questions raised about capability also prompted a discussion about the conditions that "front line responders" face when investigating situations involving abuse and neglect. The committee heard testimony about the "secondary trauma" that child protection specialists sometimes suffer in the course of their work. The committee also heard from Child and Family Services Division employees about challenges and efforts perhaps not often seen by the public. Their comments showed that the challenges of the job are more multifaceted than professional ability alone.

Sarah Corbally, administrator of the state's Child and Family Services Division, spoke to the committee about the "long hours, huge workloads, few resources, and little public praise that comes with the position." Those same points have been raised in reports in years and indeed decades past. The long-standing nature of this discussion perhaps raises the question of where the balance should lie between reforming the system and providing more resources to it.

Going Forward

Ultimately, CFHHS opted to approve four committee bills for introduction in the Legislature.

- LC 290 would create an Office of the Child and Family Ombudsman. The ombudsman would, among other duties, help the public or parties to an abuse or neglect case gain access to any information to which they are legally entitled. The office also would pursue inquiries

and complaints and would investigate the death of any child within the state's child protection system. The office would be able to inspect, copy, and subpoena certain records and to intervene in legal proceedings on behalf of a parent or child. It also would periodically review state services, make recommendations, and offer training or technical assistance. The bill includes an appropriation of \$250,000 for the biennium beginning July 1, 2013.

- LC 289 would require DPHHS to pursue a process of national accreditation for its child and family services. The bill includes an appropriation of \$100,000 for the biennium beginning July 1, 2013.
- LC 308 would allow additional family members to access certain kinds of information about child abuse and neglect reports. It also would require DPHHS to confirm whether a report of possible abuse or neglect has been received and is being acted upon. The bill was proposed in response to requests from some study participants who believed that, under current Montana law, family members and other interested parties have too little access to information about how a case is being handled.
- LC 309 would transfer \$10 million from the state general fund to the Endowment for Children. Interest from the endowment goes to the Children's Trust Fund, which makes grants to local programs designed to prevent or alleviate the effects of child abuse and neglect. Many of these programs focus on early intervention.

As these proposals move forward, lawmakers will hear more from those involved in the field about many facets of the serious issues involved in childhood trauma. Differences of opinions exist about where policymakers should focus their attention and the state's resources. As a result, advocates, agencies, and legislators likely will be discussing how best to strike a balance in addressing childhood trauma in the upcoming session.

Calendar of Legislative Events

All interim committee meetings are held in the Capitol in Helena unless otherwise noted.

October						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1	2	3	4	5	6
7	8 State Holiday	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25 Districting & Apportionment, Rm 172, 10 a.m.	26 Legislative Audit Committee, Rm 172, Time TBA	27
28	29	30	31			

November						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
				1	2	3
4	5	6	7	8	9	10
11	12 State Holiday	13 Legislative Finance Committee, Rm 102, Time TBA Legislative Council, Rm 102, Time TBA	14 Select Committee on Efficiency in Govt., Rm 102, 8 a.m. Legislative Caucuses, 10 a.m. New Legislator Orientation, House Chambers, 1 p.m. Legislative Dinner, 5:30 p.m. (Legislators Only)	15 New Legislator Orientation, Rm 317, 8:30 a.m. Districting & Apportionment, Rm 303, 6:30 p.m.	16 New Legislator Orientation, Rm TBA, 8 a.m.	17
18	19 Revenue and Transportation, Rm 137, Time TBA	20	21	22 State Holiday (Thanksgiving)	23	24
25	26	27	28	29	30 Districting & Apportionment, Rm 172, Time TBA	

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