



Newsletter

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Children and Families Committee Adds Alzheimer’s Review to Study Topics

The Children, Families, Health, and Human Services Interim Committee decided at its June organizational meeting to expand its Senate Joint Resolution 22 study of guardianship laws and services to include matters related to Alzheimer’s disease and dementia.

At the June 3 meeting, a number of advocates asked the committee to include the topic in its work this interim. They noted that the social and financial costs of Alzheimer’s disease are high and likely to increase as Montana’s aging population continues to expand.

A separate study resolution, House Joint Resolution 30, had proposed that a study of Alzheimer’s disease and other dementias determine whether changes are needed in existing facilities and programs to accommodate the needs of Montanans with dementia. The resolution was heard in the House Human Services Committee in April but was not acted on before the end of the session.

Committee members decided to add the topic to the guardianship study and to add an additional meeting day to the committee’s schedule for the study expansion. They’ll consider a revised SJR 22 study plan and a revised interim work plan when they meet in September.

SJR 22 is one of three studies assigned to the committee. Members also reviewed and adopted the proposed study plans for the House Bill 422 study of children’s mental health outcomes and the Senate Bill 418 review of legislative mental health investments.

As part of the overall work plan, committee members agreed to devote a significant amount of time to monitoring the activities of the Department of Public Health and Human Services. Members are interested in closely following developments resulting from legislation passed earlier this year to expand the Medicaid program to childless adults and to close the Montana Developmental Center, which serves severely developmentally disabled adults.

Under the proposed revisions to the work plan, the committee will spend the largest portion of its meeting time – about 31 percent – on the HB 422 study, followed closely by the SJR 22 study and agency monitoring. The SB 418 review is expected to take less of the committee’s time than the other study activities.

Also at the meeting, the committee elected Rep. Ron Ehli, R-Hamilton, as presiding officer and Sen. Mary Caferro, D-Helena, as vice presiding officer.

Next Meeting

The committee meets next on Sept. 14 in Room 137 of the Capitol in Helena. For more information on the committee's activities and upcoming meeting, visit the committee's website or contact Sue O'Connell, committee staff.

Committee Website: www.leg.mt.gov/cfhhs
Committee Staff: soconnell@mt.gov or 406-444-3597

15 Members to Be on Sentencing Commission

A 15-member Commission on Sentencing, which was created under Senate Bill 224, will spend the 2015-2016 interim conducting a fact-intensive study of the impact that existing sentencing policies and practices have on Montana's criminal justice system.

In addition to looking at impacts to state prisons, the commission will examine impacts on local jails and detention facilities, the court system, the public defender system, and law enforcement agencies. Beyond examining impacts, the commission is charged with:

- identifying strategies to safely reduce incarceration and to promote evidence-based diversion programs and other effective alternatives to incarceration;
- investigating factors contributing to recidivism, evidence-based recidivism reduction initiatives, and cost-effective crime prevention programs;
- considering disparity issues in the criminal justice system, such as racial and ethnic disparities; and
- identifying opportunities to streamline the criminal code and to balance sentencing practices with budget constraints.

The commission will be composed of four legislators, one district court judge, the director of the Department of Corrections (or a person designated by the director), a county attorney, a private criminal defense attorney, a probation and parole officer, a county sheriff, one employee from the Department of Justice and one from the Office of the State Public Defender, and three members appointed by the governor. Two of the 15 members must be enrolled members of a state-recognized or federally recognized Indian tribe located in Montana.

First Meeting

A first meeting date will be determined after the commissioners have been appointed.

To receive e-mail updates about the commission's activities, including meeting dates and when agendas and other meeting materials are available, please sign up at www.leg.mt.gov/css/Lyris/email_logon.asp.

For more information on the commission, visit the commission's website or contact Rachel Weiss, commission staff.

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

Economic Affairs Adds Broadband Review to Economic Development, Other Studies

In determining a work plan for the interim, the Economic Affairs Interim Committee decided to include the economic development impacts in this state related to broadband along with two assigned studies and member issues discussed at the committee's June 10 inaugural meeting.

Broadband technology concerns are typically heard in the Energy and Telecommunications Interim Committee, but EAIC members urged a focus on how the lack of broadband access has affected economic development in Montana and on what economic opportunities would be available if there were greater access to faster broadband speeds. Economic development and employment opportunities are common topics for the EAIC, which monitors a range of industries as well as employer and employee issues.

Other member-requested additions to the committee's work plan included a quarterly monitoring of budget activities at the Department of Livestock and at least one presentation on concerns voiced during the 2015 legislative session by stakeholders in Montana's alcohol industry.

After Commissioner of Labor and Industry Pam Bucy provided the committee with an overview of her department's activities, the committee also requested more information on a collaboration under way between the Department of Labor and Industry's apprenticeship program and the Montana University System.

In other action, the committee:

- elected Rep. Ryan Lynch, D-Butte, as presiding officer and Sen. Gordon Vance, R-Bozeman, as vice presiding officer. Separately, both legislators will also serve as liaisons to the Montana State Fund.
- agreed to spend much of its time on two studies. One study is required under Senate Bill 390, which calls for

reviewing how the Department of Labor and Industry sets fees for services provided to professional and occupational licensing boards, and the other is a study of membership-based health care, including air ambulances, under House Joint Resolution 29.

- agreed to spend a moderate amount of time reviewing rules, especially rules for implementing new legislation and rules about which a member raises concerns. At the committee's next meeting, for example, there will be a review regarding a proposed rule by the Board of Physical Therapy Examiners that is being contested by the Montana Association of Acupuncture and Oriental Medicine. A majority of the committee requested a review after the meeting, and Rep. Lynch authorized sending to the Department of Labor and Industry a [letter](#) requesting a delay in the physical therapy rule.

Also at the meeting, Sen. Lea Whitford, D-Cut Bank, and Rep. Mike Lang, R-Malta, were named as liaisons to the Rail Service Competition Council.

Next Meeting

The committee meets next on Aug. 31 and Sept. 1. For more information about the committee's activities, visit the committee's website or contact Pat Murdo, committee staff.

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

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

Mid-July Organizational Meeting Set for Education and Local Government

At the Education and Local Government Interim Committee's first meeting of the 2015-2016 interim on July 16, members will elect a presiding officer and a vice presiding officer as well as hear reports from the Office of Public Instruction, the Office of the Commissioner of Higher Education, and the Board of Public Education.

The agenda also provides for review of the committee's interim work plan and introductory information on the three studies the committee will conduct.

Assigned Studies

In May, the Legislative Council assigned the following interim studies to the committee:

- House Joint Resolution 26, requesting a study of the Dylan Steigers Protection of Youth Athletes Act. That act, enacted by the 2013 Legislature as Senate Bill No. 112 and codified at Title 20, Chapter 7, Part 13, MCA, requires school districts to adopt policies and procedures to provide information about the risks of concussion. The act also

requires that a youth athlete exhibiting signs of concussion be removed from participation in a sport and prohibits an athlete removed from participation from returning until cleared by a medical professional. HJR 26 can be summarized as asking the following questions:

- Are school districts implementing the requirements of the act consistently?
 - Do school district policies and procedures reflect the most current scientific and medical understanding of concussion identification and recovery?
 - What changes, if any, to current law or its implementation are necessary to ensure that all Montana youth athletes are protected?
- Senate Joint Resolution 20, requesting a study of county road rights-of-way on state trust land. The study scope, as outlined in SJR 20 and proponents' testimony, includes:
 - looking at the legal status of county roads that cross state trust land;
 - assessing the implications of Article X, section 11, of the Montana Constitution, which prohibits state trust land from being disposed of until the state has secured full market value of the land, and looking at how courts have interpreted that provision;
 - examining challenges that counties encounter in identifying roads on state trust land, determining the legal status of the roads, and paying full market value for road rights-of-way on state trust land;
 - reviewing the role of the Department of Natural Resources and Conservation and its interaction with counties to complete the applications for easements and to determine the full market value of the land; and
 - studying the complications that arise when private property cannot be accessed because of an absence of a legal easement on state trust land.
- Senate Joint Resolution 21, requesting a study of local fire and emergency services. Reasons for the study, as described in the resolution and in proponents' testimony, are summarized below.
 - Legislation has been introduced in the last several sessions that would affect the powers and duties of local fire departments, fire districts, fire service areas, and fire companies, as well as the qualifications, duties, and benefits provided to paid and volunteer firefighters and emergency medical technicians.
 - The Department of Natural Resources and Conservation requires counties to provide workers' compensation coverage for operators of firefighting apparatus

provided to counties and assigned to fire agencies in the counties pursuant to agreements entered into as part of the State-County Cooperative Fire Protection Program, but many local fire agencies do not have the financial resources to comply.

- Powers, duties, jurisdictions, financing, and operations of local fire and emergency service agencies are not well understood by the public or by policymakers.
- A comprehensive review of local fire protection, emergency services, and firefighter and emergency medical technician benefits would lead to more comprehensive, consistent, and coordinated services across jurisdictions to the benefit of the state's citizens.

First Meeting

The committee's first meeting of the interim will begin at 9 a.m. on July 16 in Room 137 of the Capitol in Helena. For more information on the committee's activities and upcoming meeting, 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

Energy and Telecommunications Committee to Focus on Net Metering

An examination of the costs and benefits of net metering in Montana will top the Energy and Telecommunications Interim Committee's agenda for the 2015-2016 interim.

The ETIC met June 5 to organize itself for the interim. Members elected Rep. Keith Regier, R-Kalispell, as presiding officer and Sen. Cliff Larsen, D-Missoula, as vice presiding officer.

The Legislative Council assigned the ETIC three studies: Senate Joint Resolution 12, a study of the costs and benefits of net metering in Montana; House Joint Resolution 7, a study of next-generation 9-1-1; and HJR 16, a study of ridesharing. The committee will work on each topic but agreed to a work plan devoting most of its time this interim to net metering.

To kick off the net metering study, the ETIC sent specific data requests to Montana's regulated utilities and rural electric cooperatives and to the renewable energy industry. Members agreed that stakeholders are in the best position to perform an initial analysis of net metering impacts. The information provided by stakeholders is intended to establish a clear foundation that the ETIC will use for additional policy work. The analysis should be complete by early September.

Next-Generation 9-1-1 and Other Assignments

During the June meeting, ETIC members also determined additional policy matters that they felt most deserved committee review. For HJR 7, the committee agreed to devote time evaluating next-generation 9-1-1, a term referring to technological advancements to 9-1-1 services intended to enhance public safety in Montana. A multitude of state and federal regulatory policies add to the complexity of implementing next-generation 9-1-1, and financial planning will also be critical. The implementation, management, and operation of next-generation 9-1-1 will require stakeholders to reach a consensus on critical issues in this state.

The committee also will track how Montana is marketing its energy resources and examine potential marketing improvements. In addition to identifying Montana's energy resources and their marketing potential, the study is anticipated to include discussions with stakeholders to spotlight states or countries with needs that Montana energy resources could meet. The study also will identify marketing obstacles and analyze possible solutions.

Less of the committee's time will be spent on HJR 16, its ridesharing assignment, in part because the committee agreed that the passage and approval of Senate Bill 396 this year provides a proper regulatory framework for ridesharing, including requirements for insurance and certification. The committee will track the Montana Public Service Commission's rulemaking on HJR 16 and receive updates from staff. The Public Service Commission will continue to regulate, to a limited degree, other motor carriers.

111d Subcommittee

The ETIC, in conjunction with the Environmental Quality Council, agreed to form a joint subcommittee to track proposed Environmental Protection Agency rules, referred to as "111d rules," requiring states to reduce carbon dioxide emissions in the power sector by 2030. After the governor did a line-item veto of funding for a joint subcommittee, the ETIC and the EQC determined that existing funds could be used with limited meeting dates for the joint subcommittee. The subcommittee will meet for a half day between ETIC and EQC meetings. Before the end of 2015, the ETIC will evaluate its budget to determine whether funding remains available for the subcommittee. The ETIC appointed Sen. Duane Ankney, R-Colstrip; Sen. Robyn Driscoll, D-Billings; Rep. Keith Regier, R-Kalispell; and Rep. Tom Steenberg, D-Missoula, to the subcommittee. The EQC appointments are due in September. The subcommittee's first meeting is set for Sept. 10.

Next Meeting

The ETIC meets next on Sept. 11 in Room 172 of the Capitol in Helena. For more information on the committee's activities and upcoming meeting, 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 to Study Federal Roads, Plus Sage Grouse Program Implementation

The Environmental Quality Council at its June meeting voted to dedicate a portion of its 2015-2016 interim work to the study of road management on federal land with a focus on recreational access.

Also at the June 3-4 meeting, the council elected Sen. Gene Vuckovich, D-Anaconda, as presiding officer. Rep. Jerry Bennett, R-Libby, will serve as vice presiding officer.

House Joint Resolution 13, sponsored in the 2015 Legislature by Rep. Kerry White, R-Bozeman, tasks the EQC with assessing road closures on federal lands over the last 35 years, identifying landlocked parcels of public land, and evaluating deer and elk hunting trends in relation to changes in access to federal lands.

The council also dedicated part of its committee time and staff resources to tracking the implementation of the Montana Greater Sage-grouse Stewardship Act, enacted under Senate Bill 261 this year. The purposes of SB 261 are to provide competitive grant funding and establish ongoing free-market mechanisms for voluntary, incentive-based conservation measures that benefit sage grouse habitat and populations.

The council has a full slate of duties required by law, including monitoring the departments of Environmental Quality; Fish, Wildlife, and Parks; and Natural Resources and Conservation. Members voted to conduct reviews related to the DNRC Trust Land Management Division and the Permitting and Compliance Division of DEQ. The council will also examine several FWP programs, including nongame, threatened, and endangered species, habitat, wildlife conflict prevention, hunting access management, and game management.

Next Meeting

The EQC meets next on Sept. 9-10 at the Capitol in Helena. For more information on the council's activities and upcoming meeting, visit the council's website or contact Joe Kolman, council staff.

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

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

Judicial Redistricting Study on Horizon

House Bill 430, approved by the 2015 Legislature and signed by the governor, creates a seven-member Judicial Redistricting Commission, with all members to be appointed by July 31, 2015.

The commission will use the following factors in considering whether revisions to state judicial districts are necessary:

- the population of existing judicial districts as determined by the most recent figures prepared and issued by the U.S. Census Bureau;
- each judicial district's weighted caseload as determined by judicial workload studies;
- the relative proportions of civil, criminal, juvenile, and family law cases in each judicial district;
- the extent to which special masters, alternative dispute resolution techniques, and other measures have been used in the judicial districts;
- the distances in highway miles between county seats in existing judicial districts and any judicial districts that may be proposed by the commission;
- the impact on counties of any changes proposed in the judicial districts; and
- any other factors that the commission considers significant to determining whether adjustments are needed in the state's judicial district boundaries.

The Judicial Redistricting Commission may make recommendations to the 2017 Legislature. Because current boundaries are set in law, they can be changed by the Legislature only through a bill.

The commission will be composed of two legislators, two district court judges, a district court clerk, a county commissioner, and a member of the State Bar. The bill requires the Legislative Services Division to provide staff assistance to the commission.

First Meeting

A meeting date will be determined after the commissioners have been appointed.

To receive e-mail updates about the commission's activities, including meeting dates and when agendas and meeting materials are available, please sign up at http://leg.mt.gov/css/Lyris/email_logon.asp.

For more information on the commission's activities, visit the commission's website or contact Rachel Weiss, commission staff.

Commission Website: www.leg.mt.gov/jrc

Commission Staff: rweiss@mt.gov or 406-444-5367

Audit Committee Elects Officers, Reviews 14 Audits

The Legislative Audit Committee met June 23-24 to elect officers and review 14 financial, financial-compliance, information systems, and performance audits of state agencies and programs, described below.

Members elected Rep. Randy Brodehl, R-Kalispell, as presiding officer for a second term, Sen. Mary McNally, D-Billings, as vice presiding officer, and Sen. Dee Brown, R-Hungry Horse, as secretary.

Financial Audits

- **State of Montana (13-01B)**

This financial audit report contains the independent auditor's report on the basic financial statements and the schedule of expenditures of federal awards of the state of Montana for the fiscal year ended June 30, 2014. The basic financial statements were prepared by the State Financial Services Division of the Department of Administration. The schedule of expenditures of federal awards was prepared by the Governor's Office of Budget and Program Planning.

The fundamental problem of inaccurate and incomplete financial reporting led to unfavorable opinions being issued. Because adverse and qualified opinions were issued on some of the financial information included in this report, readers should not rely on certain information and should use caution when relying on other information presented in the financial statements and notes. This report contains a recommendation related to a material weakness in internal controls over the preparation, review, and timely issuance of the state's basic financial statements, leading to these modified opinions.

Audit work found that the current financial reporting process relied on the audit process to identify errors and omissions. Financial reporting errors should be minimized during the preparation and review process. This set of financial statements provides legislators and taxpayers with a summary of the state's overall financial position. All operations and activities of the state government are summarized in these statements.

- **Montana State Lottery (13-30B)**

Financial audits are conducted by the Legislative Audit Division to determine if the financial statements are presented fairly and the agency has complied with laws and regulations having a direct and material effect on the financial statements. The financial audit report of the Montana State Lottery for the fiscal year ended June 30, 2014, contains no recommendations.

- **Montana Water Pollution Control and Drinking Water State Revolving Fund Programs (13-25B)**

The financial audit report of the Montana Water Pollution Control and Drinking Water State Revolving Fund Programs for the fiscal year ended June 30, 2014, contains no recommendations.

Financial-Compliance Audits

- **Office of the Secretary of State (14-19)**

Financial-compliance audits are conducted by LAD to determine whether an agency's financial operations are properly conducted, the financial reports are presented fairly, and the agency has complied with applicable laws and regulations. The financial-compliance audit report for the Office of the Secretary of State for the two fiscal years ended June 30, 2014, does not include any recommendations, meaning the reader can rely on the information presented in the financial schedules.

- **Public Employees' Retirement Board (14-08A)**

The financial-compliance audit report on the Public Employees' Retirement Board for the fiscal year ended June 30, 2014, does not contain any recommendations.

- **Teachers' Retirement System (14-09A)**

The financial-compliance audit report on the Teachers' Retirement System for the fiscal year ended June 30, 2014, does not contain any recommendations.

Information Systems Audit

- **Data Reliability of the Montana Automated Educational Finance and Information Reporting System, known as MAEFAIRS (14DP-02)**

In fiscal year 2014, MAEFAIRS was responsible for allocating \$772 million in state funding to over 400 Montana school districts. The report makes four recommendations because, although MAEFAIRS accurately calculates entitlements, the Office of Public Instruction could make improvements in system access, security, configuration management, and disaster recovery to ensure that business process controls continue to operate effectively.

Performance Audits

- **Administration of Montana Drug Courts (13P-08)**

Although national data and LAD's observations of drug courts in Montana reveal positive outcomes, the judicial branch lacks accurate performance data to support expenditures. Ten recommendations in the report relate to the branch needing to improve programmatic oversight, evaluation, and training systems to support the individual courts.

- **Bankcard Transaction Fees and Contract Management (14P-04)**

State agencies processed payments totaling more than \$115 million using point-of-sale systems in fiscal year 2013 and \$209 million online in calendar year 2013, which includes more than \$13 million in transaction fees paid by citizens and state agencies. The Department of Administration received three recommendations related to improving its management of contracts to better assist agencies with resolving payment application issues, monitoring bankcard transaction fees, and monitoring contractor compliance with security requirements.

- **Game Damage Program (14P-06)**

Providing game damage assistance to private landowners is a priority for the Department of Fish, Wildlife, and Parks, but the game damage program faces significant management challenges. Ten recommendations in the report address the program's need to address a lack of accountability and consistency in decision-making when responding to game damage complaints. This includes improving program information, increasing management oversight, and clarifying the level of public hunting access landowners need to allow in order to qualify for game damage assistance.

- **The Rate Setting Process within the State Information Technology Services Division (14P-01)**

The State Information Technology Services Division provides a wide range of information technology services across state government. Based on the rates established by SITSD, about \$38 million in revenue was collected for these services during fiscal year 2014. Four recommendations were made associated with SITSD improving its rate-setting model and performing regular benchmarking of its rates in order to identify options to lower information technology costs for its customers.

Contract Audits

- **Dawson Community College (14C-06)**

A financial-compliance audit on the Dawson Community College for the two fiscal years ended June 30, 2014, was conducted by a contractor and makes one recommendation related to performing account reconciliations in a timely manner.

- **Flathead Valley Community College (14C-07)**

A financial-compliance audit on the Flathead Valley Community College for the two fiscal years ended June 30, 2014, was conducted by a contractor and makes no recommendations.

- **Miles Community College (14C-08)**

A financial-compliance audit on the Miles Community College for the two fiscal years ended June 30, 2014, was conducted by a contractor and makes no recommendations.

Purpose of Division

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, financial-compliance, performance, and information system audits of state agencies and programs, including the Montana university system. To search for a specific audit, use the identifier listed in parentheses following the individual audit names as introduced earlier.

To report improper acts committed by state agencies, departments, or employees, call the division's fraud hotline at 800-222-4446, e-mail the division at LADHotline@mt.gov, or use the online fraud reporting form available at the committee's website.

Next Meeting

The next committee meeting will likely be scheduled for the fall. For more information about the committee and its activities, visit the Legislative Audit Division website or contact Legislative Auditor Tori Hunthausen.

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

Committee Contact: thunthausen@mt.gov or 406-444-3122

Legislative Council Seeks CSG Help on Justice Project, to Meet in August

At its May 18 meeting, the Legislative Council asked staff to coordinate a letter to request assistance from the Council of State Governments Justice Center and pledged support to the Commission on Sentencing, created by Senate Bill 224 (see earlier article). The letter is in the process of being signed by Senate President Debby Barrett, House Speaker Austin Knudsen, Gov. Steve Bullock, Chief Justice Mike McGrath, Attorney General Tim Fox, and Corrections Director Mike Batista. The letter is scheduled to be sent to the Council of State Governments by late June.

Next Meeting

The Legislative Council meets next on Aug. 13-14 for its biennial off-campus strategic planning session after a short business meeting at the Capitol in Helena. For more information on the council's activities and upcoming meeting, visit the council's website or contact Susan Byorth Fox, council staff.

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

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

Legislative Finance Begins Interim Work

The Legislative Finance Committee began its interim work on June 18 with presentations required by statute: a review of state information technology systems and the IT budget, agency budget amendments, and the operating plans submitted to the Legislature by the Governor's Office of Budget and Program Planning. Members also received an update on the publication of the 2017 Biennium Fiscal Report.

Members elected Sen. Jon Sesso, D-Butte, as presiding officer, Rep. Nancy Ballance, R-Hamilton, as vice presiding officer, and Rep. Kimberly Dudik, D-Missoula, as secretary.

Legislative Fiscal Analyst Amy Carlson provided the committee with printed copies of volume 1 of the 2017 Biennium Fiscal Report. The fiscal report is available [electronically](#).

Kris Wilkinson, a senior fiscal analyst with the Legislative Fiscal Division, reviewed the committee's role in monitoring the IT policies of the Department of Administration. Chief Information Officer Ron Baldwin then reported on the changes to the State Information Technology Division, including the elimination of some upper management staff positions in an effort to reduce the budget. Baldwin also gave updates on IT projects and budgets.

Scot Conrady, a fiscal analyst with the Legislative Fiscal Division, gave the latest in a series of Medicaid reports, begun in the previous interim. LFC members suggested slight alterations to the most recent report to improve communication.

Study Activities

The committee then spent most of the rest of the day at a brainstorming work session at the Montana Wild Center in Helena. Among topics discussed:

- House Joint Resolution 27, a statutory appropriations study. The committee directed staff to update a previous study by including new statutory appropriations and to prepare a final primer for September 2016.
- House Joint Resolution 8, a law enforcement academy study assigned to the LFC by Legislative Council. The committee directed staff to allow appropriate state agencies and stakeholders to lead the project, with LFD staff attending meetings and reporting back.
- Senate Bill 418, for which the committee asked staff to prepare an educational primer on the state employee health insurance pool for the September 2016 meeting; and
- internal improvements by LFD in such areas as data compilation and phase II of implementing IBARS (a state budgeting system).

Next Meeting

The committee meets next on Sept. 24-25 at the Capitol in Helena. For more information on the committee's activities and upcoming meeting, visit the committee's website or contact Amy Carlson, committee staff.

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

Committee Staff: acarlson@mt.gov or 406-444-2988

Revenue and Transportation to Meet July 9 on Work Plan

The Revenue and Transportation Interim Committee will consider a work plan and meeting schedule at its July 9 organizational meeting. The committee has agency monitoring duties for the departments of Revenue and Transportation and for the Montana Tax Appeal Board. A key responsibility is determining and introducing a revenue estimate for the 2017 legislative session.

The committee will also elect a presiding officer and a vice presiding officer. Legislative Council did not assign any interim studies to the committee, so the members will consider topics for study at the meeting. The committee will take public comment on the work plan and topics for study.

Senate members of the committee are Dick Barrett, D-Missoula; Mark Blasdel, R-Kalispell; Brian Hoven, R-Great Falls; Christine Kaufmann, D-Helena; Sue Malek, D-Missoula; and Fred Thomas, R-Stevensville.

House members are Jeff Essmann, R-Billings; Greg Hertz, R-Polson; Tom Jacobson, D-Great Falls; Rae Peppers, D-Lame Deer; Alan Redfield, R-Livingston; and Bridget Smith, D-Wolf Point.

First Meeting

The committee will meet on July 9 in Room 137 of the Capitol in Helena. 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

State-Tribal Relations Committee to Initiate Interim in Browning

The State-Tribal Relations Interim Committee kicks off its work this interim with a visit to the Blackfeet Reservation in July, coinciding with the Blackfeet Native American Indian Days celebration.

At the STRC meeting, members will elect their leadership, establish work priorities for the interim, and meet in a joint session, starting July 9 about 2 p.m., with members of the Blackfeet Tribal Business Council. Members of the Glacier County Commission will meet with the committee on July 10.

Proposed topics that STRC members will consider for study, including how much time to devote to selected topics, include:

- cultural patrimony and sacred objects and sites;
- economic impacts and financing of tribal colleges;
- law enforcement jurisdictional issues;
- St. Mary River Diversion and Canal;
- impacts of public charter schools on reservations; and
- financial assistance provided to tribes through state agencies.

The July meeting will also feature updates on the following:

- the Indian language preservation program, including a demonstration of the Blackfeet program;
- funding for suicide prevention on reservations;
- the Governor's Office of Indian Affairs; and
- implementation of the Indian language immersion program provided for in Senate Bill 272 (2015) and referenced in House Bill 559 (2015).

Senate members of the STRC are Jill Cohenour, D-East Helena; Jennifer Fielder, R-Thompson Falls; Kristin Hansen, R-Havre; and Jonathan Windy Boy, D-Box Elder.

House members are Alan Doane, R-Bloomfield; Edward Greef, R-Florence; George Kipp III, D-Heart Butte; and Zac Perry, D-Hungry Horse.

First Meeting

The committee's first meeting starts at 12:30 p.m. on July 9 in the upstairs conference room of the Glacier Peaks Casino in Browning. On July 10, the committee will meet in the same place, convening at 7:30 a.m. For more information on the committee's activities and upcoming meeting, visit the committee's website or contact Hope Stockwell, committee staff.

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

Committee Staff: hstockwell@mt.gov or 406-444-9280

WPIC Opts for Broad Water Study

The Water Policy Interim Committee agreed at its June 1-2 meeting to take a comprehensive look during the next 15 months at water availability and supply in Montana. The committee will also be exercising its newly expanded pow-

ers, bestowed by passage and approval of Senate Bill 82.

That legislation gives official oversight to the committee over executive branch programs "where the primary concern is the quality or quantity of water."

The committee elected Sen. Bradley Maxon Hamlett, D-Cascade, as presiding officer. Hamlett previously served in that post in the 2011-12 interim. Rep. Carl Glimm, R-Kila, was elected vice presiding officer.

For its work plan for the 2015-2016 interim, the committee settled on these major priorities:

- a study of federal Section 404 permitting, related to "dredge-and-fill" permits required by the U.S. Army Corps of Engineers under the federal Clean Water Act. This study, a result of Senate Joint Resolution 2, will examine whether the state could assume responsibility for that program and will include discussion of "waters of the United States," a term recently defined in a federal rule that will take effect later this summer.
- a study of the future of the Montana Water Court. The court has been adjudicating thousands of water rights claims for more than two decades, and some legislators are interested in how the water court relates to other legal processes related to water rights, such as permitting and enforcement of rights.
- a study of water availability, planning, and supply. This study encompasses myriad areas, including exempt groundwater wells, water marketing, future water quality standards, use of gray water, efficiency of irrigation, and water availability for growing communities.

SB 82 granted WPIC the authority to perform administrative rule review, draft legislation review, program evaluation, and monitoring of these programs:

- Water Resources Division (Department of Natural Resources and Conservation);
- Public Water and Subdivisions Bureau (Department of Environmental Quality);
- Water Protection Bureau (DEQ); and
- Water Quality Planning Bureau (DEQ).

Next Meeting

The committee meets next on Sept. 2-3 in Room 172 of the Capitol in Helena. For more information on the committee's activities and upcoming meeting, visit the committee's website or contact Jason Mohr, committee staff.

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

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The Back Page

Zen and the Art of School Funding: An Inquiry into the 2015-2016 School Funding Interim Commission

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“Because the Constitution mandates that the Legislature provide a quality education, we determine that the Legislature can best construct a ‘quality’ system of education if it first defines what is a ‘quality’ system of education.”

Columbia Falls Elementary School District No. 6 v. State
Montana Supreme Court, 2005

In the late 1950s author Robert Pirsig was teaching writing at then Montana State College in Bozeman. His duty was to develop “quality” writing skills in his students, but he was profoundly troubled that the college provided no definition of “quality.” Pirsig spent a large part of his life developing a “Metaphysics of Quality,” which he introduced and explored in his 1974 philosophical novel *Zen and the Art of Motorcycle Maintenance*. The book has been on my mind lately for a couple of reasons, and not just because of the decennial school funding study.

First, my wife and I recently replaced our 40-year-old furnace that was perhaps 60 percent efficient with a new 95 percent efficient model. Our fuel bills this past winter were reduced, but there was an increase in the number of mornings I spent on my knees in our basement trying to coax a faulty pressure switch to close, allowing the new furnace to operate. On one of these chilly occasions, I reflected on whether the upgrade was worth it and a faint memory of *Zen and the Art* came to me. My recollection was the book followed two guys on a long motorcycle trip, one who preferred an older bike that required frequent minor maintenance for optimum performance, the other who purchased a new technologically sophisticated bike that he generally didn’t have to attend to at all. The first gentleman was obliged to carry a number of tools and be constantly attuned to the sounds of his machine to ensure its smooth operation; the second carried no tools and didn’t give the operation of his machine much attention at all. I guess it was the irony of the *increased* maintenance required by our new *high-tech* furnace that brought Pirsig to mind.

Anyone who enjoys mechanical tinkering has probably realized that the complexity of new automobiles has basically

relegated them to the sidelines of car repair. A screwdriver and a socket set are likely not going to allow much fine tuning of a vehicle whose operation is dictated by a microchip. One tradeoff in this dynamic has been increased fuel economy, which raises the question: does the maximization of efficiency require complexity? I’m guessing you can sense now the second reason that *Zen and the Art* has been on my mind recently as the legislative research analyst assigned to staff the School Funding Interim Commission.

Montana’s school funding formula is way past basic gas and air carburation; the state has a highly complex, multi-revenue, multi-fund injection system with triggers tied to “anticipated enrollment increases” and even West Texas crude prices as well as adjustments for school district enrollments ranging from a handful of students to over 10,000. There’s an attempt to equalize property tax disparities using local mill subsidies based on the ratio of a district’s taxable value to its number of students. These are just a handful of the myriad calculations that go into a school district budget.

There is quite a bit of joking about the complexity of state school funding formulas, not just in Montana but in a lot of states. But it’s no joke that education is the biggest slice of Montana’s biennial general fund budgetary pie. Knowing more about education funding is important for everyone. If only a handful of elected representatives truly understand Montana school finance, then fiscal oversight and responsibility are diminished, as is democracy generally. If a school funding formula needs to be complicated to maximize efficiency, how can a citizen legislature, which is constitutionally charged with designing and maintaining this funding formula, gain the skills needed to do so?

One way of accomplishing this might be to establish a recurring interim commission charged with taking a deep look at Montana's school funding formula and reporting its findings and recommendations to the next legislature.

[Senate Bill 128](#) (2015—Hansen) did just that, creating the School Funding Interim Commission and requiring its formation every 10 years beginning with the 2015-2016 interim. The commission has two primary duties:

- conduct a study to reassess the educational needs and costs related to the basic system of free quality public elementary and secondary schools; and
- if necessary, recommend changes to the state's funding formula for the following legislature.

The 2015-2016 commission is composed of 12 legislators, evenly divided by chamber and party, plus four members of the public.

Senators	Representatives	Public Members
Elsie Arntzen	Jeff Essmann	Dave Lewis
Tom Facey	Debra Lamm	Patricia Hubbard
Kristin Hansen	Don Jones	Renee Rasmussen
Mary Sheehy Moe	Kathy Kelker	TBA
Matthew Rosendale	Edie McClafferty	
TBA	Susan Webber	

SB 128 clarifies a requirement for a study of this kind that was already in law and originated in events leading up to the 2005 legislative session.

Origins of Review

In September 2002 plaintiffs that included a number of school districts, school advocacy groups, and individuals filed a complaint in the First Judicial District Court in Helena challenging the constitutionality of Montana's school funding formula. This case is known as *Columbia Falls v. State* (or Columbia Falls "1" to distinguish it from a second suit known as Columbia Falls "2"). The trial took place from Jan. 20 to Feb. 4, 2004, and Judge Jeffrey Sherlock issued his [decision](#) on April 15, 2004, finding in favor of the plaintiffs, but delaying the effect of his orders by nearly a year and a half until Oct. 1, 2005, in order to "give the [2005 Legislature] ample time to address the very complicated and difficult issues involved in this case." In his conclusions of law, Judge Sherlock also stated: "To satisfy the Montana Constitution, the State's school finance system must be based upon a determination of the needs and costs of the public school system, and the school finance system must be designed and based upon educationally-relevant factors."

Key School Funding Terms and Acronyms

ANB: Average Number Belonging; for budgeting purposes ANB is *roughly* the same as enrollment; however, ANB is inflated by about 4 percent over enrollment to provide funding for professional development days.

GTB: Guaranteed Tax Base; a mechanism that provides a state subsidy to districts or counties whose taxable value per pupil is less than an established threshold.

DSA: Direct State Aid; every district receives 44.7 percent of the district's basic and per-ANB entitlements from the state as DSA.

NRD: Natural Resource Development payment (*perhaps* affectionately known as the "nerd" payment); a payment to districts to offset local property tax increases that would result from increases to state entitlements.

BASE: Base Amount for School Equity; all districts are required to adopt a general fund budget at the BASE level or higher.

Basic entitlement: A set amount each district includes in its general fund budget; SB 175 (2013) added "increments" so that districts with higher enrollments are funded at a higher level.

Per-ANB entitlement: Roughly a per-student amount each district includes in its general fund budget; a "decree" reduces this amount by 50 cents per high school ANB for each additional ANB up to 800 ANB and by 20 cents per elementary ANB through the 1,000th ANB as a way of addressing "economies of scale."

QE: Quality Educator; a payment to districts based on the number of qualified teachers employed.

IEFA: Indian Education for All; a per-ANB payment to districts to implement the state's constitutional commitment in its education goals to the preservation of Indian cultural integrity.

At-risk payment: A lump sum appropriation that is distributed in the same way that federal Title I dollars are distributed to districts, based on the number of children living in poverty in the district.

American Indian Achievement Gap: A payment to districts for every Indian student enrolled in the district for the purpose of closing the achievement gap that exists between Indian and non-Indian students.

Data for Achievement: A per-ANB payment to districts to provide funding for costs associated with data systems.

The state appealed to the Montana Supreme Court and a preliminary finding affirming the district court decision was released in November 2004. School funding was a top priority going into the 2005 session.

In [upholding the district court's decision](#), the Montana Supreme Court stated: "Because the Constitution mandates that the Legislature provide a quality education, we determine that the Legislature can best construct a 'quality' system of education if it first defines what is a 'quality' system of education." The 2005 Legislature was working on fulfilling the orders of both courts in [Senate Bill 152](#).

SB 152 was read across the rostrum on Day 1 of the 59th Legislature and heard two days later in Senate Education and Cultural Resources. As introduced, the bill defined the "basic system" and identified additional "educationally relevant factors" on which the basic system is established. The bill was heavily scrutinized and amended throughout the legislative process, eventually being composed of four substantive sections:

1. A new section, "Legislative goals for public elementary and secondary schools," codified at [20-1-102, MCA](#). (Amended in 2013—[HB 182](#))
2. A new section, "Basic system of free quality public elementary and secondary schools defined – identifying educationally relevant factors – establishment of funding formula and budgetary structure – legislative review," codified at [20-9-309, MCA](#). (Unchanged until SB 128—2015)
3. Amendments to [20-1-101, MCA](#) "Definitions" (unchanged since 2005), including additional definitions of
 - a. "Accreditation standards;"
 - b. "At-risk student;"
 - c. "Educational program;"
 - d. "Qualified and effective teacher or administrator;" and
 - e. "Student with limited English proficiency."
4. Amendments to [20-7-101, MCA](#), "Standards of accreditation," requiring that the Board of Public Education submit any change to the accreditation standards to the Education and Local Government Interim Committee and that ELG request a fiscal analysis of the proposed change from the Legislative Fiscal Division. (Unchanged until 2015 and significantly amended by [SB 345](#))

As it was introduced, SB 152 did not contain a requirement for periodic review of the school funding formula, but legislators added this requirement early in the process with some vacillation between requiring a review every six years and every 10. The Legislature settled eventually on a require-

ment that a reassessment be conducted "at least every 10 years." It was this requirement that SB 128 formalized this past session.

The 2015-2016 School Funding Interim Commission is charged with reassessing the educational needs and costs related to this basic system. *Reassessing* implies that an assessment has taken place previously, and it has.

Despite the hard work of a specially appointed Joint Select Committee on Education Funding that met 3 to 4 days a week throughout the 2005 session, the 2005 Legislature was not able to accomplish the task of redesigning the school funding formula to satisfy the court's order and prior to sine die created the Quality Schools Interim Committee. QSIC had until Dec. 1, 2005, to assess the needs and costs of the basic system, determine the state's share of those costs, construct a funding formula, and prepare the necessary legislation in advance of an expected special session.

It was a busy seven months for all involved. Early in the process, committee members determined to hire a consultant generally to assist in the process and specifically to conduct an assessment of the needs and costs of the newly defined basic system. R.C. Wood and Associates of Gainesville, Fla., was contracted for these purposes. In determining the costs of Montana's K-12 system, R.C. Wood and Associates used four different methodologies common to "costing out" studies:

- "Successful schools" establishes a definition of success, identifies school districts meeting that definition, and then employs expenditure data from those districts to estimate total costs statewide.
- "Professional judgment" uses panels of education experts to determine what resources are necessary to provide an adequate education in a prototypical school or schools and then establishes costs for those resources and extrapolates from the prototype(s) to estimate statewide costs.
- "Evidence-based" involves selecting proven strategies for increasing student achievement (e.g., full-day kindergarten, smaller class sizes K-3, collaborative professional development for teachers) and determining the incremental costs of implementing those strategies on a statewide scale.
- "Statistical analysis" or "Cost function" estimates costs based on a complex analysis of expenditures, student achievement, and student and district characteristics.

The different methodologies resulted in estimates of required increased statewide annual investment ranging from \$21 million to \$329 million.

Definition of “basic system of free quality public elementary and secondary schools” and list of “educationally relevant factors” from 20-9-309, MCA (emphasis added)

(2) As used in this section, a “**basic system of free quality public elementary and secondary schools**” means:

- (a) the **educational program specified by the accreditation standards** provided for in 20-7-111, which represent the minimum standards upon which a basic system of free quality public elementary and secondary schools is built;
 - (b) **educational programs to provide for students with special needs**, such as:
 - (i) a **child with a disability**, as defined in 20-7-401;
 - (ii) an **at-risk student**;
 - (iii) a student with **limited English proficiency**;
 - (iv) a child who is qualified for services under 29 U.S.C. 794^[*]; and
 - (v) **gifted and talented children**, as defined in 20-7-901;
 - (c) educational programs to implement the provisions of Article X, section 1(2), of the Montana constitution and Title 20, chapter 1, part 5, through development of curricula designed **to integrate the distinct and unique cultural heritage of American Indians into the curricula**, with particular emphasis on Montana Indians;
 - (d) **qualified and effective teachers or administrators and qualified staff** to implement the programs in subsections (2)(a) through (2)(c);
 - (e) **facilities and distance learning technologies** associated with meeting the accreditation standards;
 - (f) **transportation** of students pursuant to Title 20, chapter 10;
 - (g) **a procedure to assess and track student achievement** in the programs established pursuant to subsections (2)(a) through (2)(c); and
 - (h) **preservation of local control** of schools in each district vested in a board of trustees pursuant to Article X, section 8, of the Montana constitution.
- (3) In developing a mechanism to fund the basic system of free quality public elementary and secondary schools and in making adjustments to the funding formula, the legislature shall, at a minimum, consider the following **educationally relevant factors**:
- (a) the **number of students in a district**;
 - (b) the **needs of isolated schools with low population density**;
 - (c) the **needs of urban schools with high population density**;
 - (d) the **needs of students with special needs**, such as a child with a disability, an at-risk student, a student with limited English proficiency, a child who is qualified for services under 29 U.S.C. 794, and gifted and talented children;
 - (e) the **needs of American Indian students**; and
 - (f) the **ability of school districts to attract and retain qualified educators and other personnel**.

* Commonly known as Section 504, 29 U.S.C. 794 prohibits discrimination based on disability and uses a broader definition of “disability” than in the Individuals with Disabilities Education Act (IDEA; 20 U.S.C. 1400 et seq.). Both federal laws require districts to provide FAPE, a “free and appropriate public education,” to students with disabilities.

End Result of 2005 Effort

The committee spent considerable effort on a proposal for a new funding formula, but to make a very long story very short, the proposal did not gain traction, and when the special session convened, the legislature opted for tweaking the existing funding formula by:

- providing a quality educator payment;
- providing an at-risk student payment;
- providing an Indian education for all payment;
- providing an American Indian achievement gap payment; and
- increasing the basic and per-ANB entitlements.

Back to Court

In 2008, the plaintiffs from Columbia Falls “1” filed a motion for supplemental relief alleging that the Legislature had failed to comply sufficiently with the previous court order. In his Columbia Falls “2” [decision](#), Judge Sherlock reviewed the work of QSIC and the actions taken by the Legislature since 2005. Those who find school funding difficult to grasp may find commiseration from Judge Sherlock: “In reviewing the testimony in this case, the Court must reiterate the confounding complexity of Montana’s school funding system.”

In the end, the court declined to award any supplemental relief to the plaintiffs, finding that “the State is in the process

of making a good faith effort to preserve and protect Montana’s constitutional commitment to a sound public education system.” In noting the improvements made since 2005, Judge Sherlock acknowledged some areas of continuing concern. Special education funding was one. Judge Sherlock questioned whether state appropriations for special education had kept up with increased costs and whether regular and special education were competing for general fund dollars. He also mentioned problems with recruitment and retention of teachers in Montana’s rural and isolated school districts. Several times Judge Sherlock emphasized the need for the funding formula to be more clearly based on actual costs.

Toward the Future

Since 2008 numerous changes have been made to Montana’s school funding formula. One of these changes was Senate Bill 175 in the 2013 session, which was referred to in the press as a “historic rewrite” of public school funding. While the fundamental purpose of public education has not changed over time, the public’s understanding of learning, the role of technology, and concerns about safety have changed public schools dramatically in the past decades. The intent of a decennial school funding study seems to be to ensure that school funding gets a close examination with some regularity. The 2015-2016 School Funding Interim Commission has its work cut out! To follow these efforts, visit www.leg.mt.gov/sfc.

Montana Public Schools by the Numbers

Number of kindergarten through 12th grade pupils statewide: **144,532**

Percent of statewide pupils enrolled in Billings Public Schools: **11.4%**

Number of operating school districts: **406**

Number of schools: **824**

Total bus route miles in 2013-2014: **17,181,526**

Total bus route miles in equivalent trips around the Earth: **690**

State revenue to district general funds: **\$664,070,829**

Percent of district general fund paid by state: **63.8%**

Statewide per-pupil expenditures: **\$10,874.10**

Graduation rate: **85.4%**

All data from the most recent year available in [GEMS*](#) as of June 4, 2015.

*If asked for a password, hit “cancel” and the website will pop up.