



THE INTERIM

June 2012

A monthly newsletter of the Montana Legislative Branch

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The Interim is published by:

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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.

CFHHS Requests Hunger Legislation, Works on Child Trauma Study

The Children, Families, Health, and Human Services Interim Committee in May wrapped up its study of childhood hunger by agreeing to introduce two bills in the 2013 Legislature. The bills would appropriate funds to encourage use of the School Breakfast Program and to develop out-of-school food support programs.

The committee also agreed to introduce a bill for a one-time payment to Medicaid providers. The payment is designed to make up for the loss of expected revenue that occurred when Gov. Brian Schweitzer eliminated a scheduled rate increase in fiscal year 2011 as part of the reductions he was required by law to make when the state budget picture was bleaker.

The committee continued work on its Senate Joint Resolution 30 study of childhood trauma. Members heard from several groups of speakers and then identified four topics to follow up on during the last two meetings of the interim.

In completing the House Joint Resolution 8 study of childhood hunger, the committee approved the following items:

- a bill to appropriate \$340,000 in the 2015 biennium to encourage the increased use of the School Breakfast Program. Most of the money -- \$300,000 -- would be used to reimburse schools that provide breakfast for free to children whose family income is at 131% to 185% of the federal poverty level. Those children currently pay 30 cents for breakfast. The bill also would set aside \$20,000 each year to make \$500 grants to schools that start a new breakfast program.
- a bill to appropriate \$500,000 of Temporary Assistance for Needy Families funds during the biennium for grants to public or private organizations that serve TANF-eligible children. The programs must provide access to nutritious foods while the children are out of school. The bill would allow the Department of Public Health and Human Services to make grants of up to \$25,000 to eligible organizations.
- a letter asking the Office of Public Instruction to establish an online clearinghouse to provide nutrition education information. The website also would serve as a forum for sharing information developed

by the many individuals and groups working to reduce hunger and increase access to healthy foods.

Committee Approves Bill for One-time Payment to Providers

The bill to make payments to Medicaid providers would appropriate \$6.4 million from the state general fund for providers. It also directs DPHHS to seek \$9.6 million in federal matching funds. If the federal government denies or only partially funds the request, the bill would appropriate additional general fund money to make up the difference.

Medicaid providers earlier had told the committee about their difficulties in providing services when the costs of doing business are increasing but state reimbursement rates have not kept pace. Non-physician providers were slated to receive a one-time rate increase of 2% in fiscal year 2011. Doctors were scheduled to receive a 6% increase. However, the increase did not go into effect.

Sen. Christine Kaufmann, D-Helena, proposed the legislation because the state is expected to have a higher-than-expected budget balance at the end of the current fiscal year. The bill would use money from that surplus for the provider payments.

Legislation May be in the Mix for Child Trauma Study

The committee devoted much of its May meeting to gathering more information related to the childhood trauma study. A panel of speakers discussed:

- the potential benefits and concerns related to licensing or certifying child protection case workers;
- the range of approaches Montana and other states have taken to encouraging cooperation among the various agencies that work with abused or neglected children; and
- options for providing oversight of actions taken by state child abuse and neglect case workers.

In addition, three Department of Public Health and Human Services employees discussed the demands of their jobs as child protection specialists and the conditions they face when working with families who have been reported for suspected abuse or neglect. Organizations that provide prevention and intervention services for children and youth experiencing trauma also discussed their views on the barriers to offering those services to children at an earlier age. The committee had previously received information about the effects of trauma on brain development in infants and young children.

Committee members agreed to focus in June on two pieces of potential legislation. One would create an ombudsman position for child abuse and neglect. The other would require

DPHHS to be accredited by a national organization that establishes standards for case workers and state agencies.

Ideas for the responsibilities of the ombudsman position included reviewing complaints from the public about how DPHHS has handled reports of suspected child abuse and neglect, helping people obtain information to which they may be entitled, and ensuring that DPHHS is performing its duties properly.

Committee members also decided to review in more depth the state laws governing confidentiality of child abuse and neglect investigations. Some speakers suggested that current state law prevents DPHHS from providing enough information to let people know the status of the cases and whether the cases have been handled properly.

Finally, the committee will review some early prevention and intervention programs to determine if the state could do more to support such efforts.

The committee meets June 25 in Room 137 of the Capitol. The agenda and meeting materials will be posted on the committee's website, <http://leg.mt.gov/cfhhs>, as they become available.

For more information about the committee, contact Sue O'Connell at 406-444-3597 or soconnell@mt.gov.

Redistricting Panel Concludes Public Hearings on Draft Plans

In May, the Districting and Apportionment Commission finished the public-hearing phase on the five draft redistricting plans with meetings in Havre, Wolf Point, Crow Agency, Billings, and Miles City. Members of the public turned out in force at these meetings to testify on the plans. The commission held 14 public hearings around Montana in March, April, and May.

Audio files of the hearings will be posted at <http://leg.mt.gov/districting> on the "Meetings" page. Copies of all written comments received by the commission are available on the "Public Comment" page. Citizens have sent in hundreds of letters, emails, and faxes expressing their opinions about their communities and plans.

Although the initial public hearings are complete, the commission continues to take public comment about the draft plans. Send written comments to Districting and Apportionment Commission, Legislative Services Division, PO Box 201706, Helena, MT 59620-1706; by email to districting@mt.gov; or by fax to 406-444-3036.

The commission plans to meet in Helena Aug. 13-17 to discuss the draft plans and to adopt a tentative 100-district

house map. In November, the commission will pair the house districts to create “nested” senate districts and hold another public hearing on the senate pairings.

A final public hearing on the entire plan will be held in December, just before the commission must submit the plan to the 2013 Legislature for its constitutionally mandated review. The Legislature has 30 days after receiving the plan to make recommendations to the commission. The commission, however, is not required to adopt legislative recommendations. The commission must file its final plan within 30 days after the Legislature returns the plan.

For more information on the commission, please visit <http://leg.mt.gov/districting>. To stay up-to-date on future commission activities and meetings, sign up for email notices by clicking “Sign up for Electronic Notices of Committee Activities” on the commission’s website.

EAIC to Review Physician Licensing, Hear from Insurers on Health Care Reform

The Economic Affairs Interim Committee will hear about physician licensing and health insurers’ responses to federal health care reform at a June 11-12 meeting in Room 172 of the Capitol, starting at 9 a.m. both days.

Physician licensing concerns were discussed at an April 20 meeting at which committee members learned that the review of physician licensing usually takes about 90 days. However, members asked for more details about how the Board of Medical Examiners balances the need to protect the public through vetting physician applicants against the need to make sure that unnecessary barriers are removed from the application process for physicians who want to practice in Montana but can practice anywhere.

A related panel discussion will focus on access to primary health care in Montana, particularly in counties that have no primary care physicians.

The committee will review the Board of Medical Examiners use of position papers instead of rules. The board has been using position papers related to physician-assisted suicide and medical marijuana. The committee will not examine specific subjects of the position papers but will learn more about position papers in general and whether there is a role for position papers, which do not undergo the same scrutiny as a rule or have the same stature.

A panel will discuss problems insurers have encountered with the federal health care reform act and which elements of health care reform they may retain if the federal act is overturned by the U.S. Supreme Court or by the next Congress. Although the future of health care reform is uncertain, the

panel provides an opportunity to hear from Montana’s five major health insurers, including the newest entrant, Pacific Source.

The committee also will consider the following topics:

- whether the Board of Hearing Aid Dispensers could do away with hearing contract disputes if the Department of Justice handled the disputes through consumer protection statutes;
- whether restraint of trade amounts to an unfair trade practice under Montana law;
- a review by the State Auditor’s Office of an actuarial analysis of the Montana State Fund;
- a review of a proposal for presumptive illness for firefighters under workers’ compensation statutes;
- a House Bill 525 review of the Board of Psychologists; and
- an update on the Board of Horseracing.

Finally, the committee will consider a bill draft that would remove a requirement to form an advisory council if medical malpractice insurance becomes generally unavailable in Montana. The advisory council has not met because there have been no significant problems with physicians obtaining medical malpractice insurance since 2005. The state auditor has the authority to form an advisory council even without a specific requirement.

A subcommittee will meet after the committee adjourns on June 12 to discuss possible financing options for workers’ compensation for volunteer firefighters and emergency medical technicians. The subcommittee will meet at 2 p.m. in Room 172 of the Capitol.

At the April 20 meeting, the committee heard from:

- the State Auditor’s Office as part of the committee’s monitoring duties of state agencies;
- Dr. Tom Roberts, who provided an overview of a new Montana Co-Op Health Insurance Plan;
- an opponent of the federal health care reform act, who during public comment presented names of about 220 Montanans who signed a petition expressing their opposition to the act;
- representatives of grain elevators, grain growers, and other farm groups regarding proposals to revise bonding requirements related to sales between farmers and grain elevators;
- representatives of the Board of Horseracing regarding its financing problems;

- the Building Codes Bureau, Department of Labor and Industry; and
- representatives of the Board of Hearing Aid Dispensers, the Electrical Board, the Board of Plumbing, and the Board of Professional Engineers and Professional Land Surveyors.

For more information about the June 11-12 meeting, including approximate times for public comment, see the agenda online at <http://leg.mt.gov/eaic>. For other information contact Pat Murdo, committee staff, at 406-444-3594 or pmurdo@mt.gov.

Energy Committee Tours Energy Facilities

The Energy and Telecommunications Interim Committee blasted into Butte for a two-day meeting in May, touring a geothermal site, learning about power markets and portfolios, checking out natural gas-fired turbines, and taking in an underground mine education center.

The ETIC met on the Montana Tech campus in Butte and traveled to several nearby energy-related facilities including the PPL EnergyPlus Trading Floor and the Dave Gates Generating Station.

PPL EnergyPlus is PPL's competitive sales and marketing arm that is an agent for the sale of PPL Montana generation and also purchases electricity from PPL Montana for resale to retail customers.

At the NorthWestern Energy System Operations Control Center, dispatchers monitor and direct the operations of NorthWestern Energy's transmission system to ensure the grid is operated in a reliable and safe manner.

Committee members also went underground to check out the Orphan Girl and Orphan Boy Mine Geothermal Project Site.



Sen. Jim Keane prepares to go underground at the Orphan Girl Mine.

The site is part of the Underground Mine Education Center at Montana Tech. The school is retrofitting the Natural Resources Building on campus and the mines to capture the warm water in the Orphan Boy to heat the building. Part of the retrofit includes connecting the Orphan Girl shaft to the Orphan Boy workings by blasting through several feet of rock. Members were treated to a detonation -- and the smoky fall-out.

Members later traveled to Anaconda to see the Dave Gates Generating Station. The plant includes three 50-megawatt generating units with each generating unit consisting of two combustion turbine engines and a common generator. The combustion turbines are similar to those used on commercial airliners.



Members of the Energy and Telecommunications Interim Committee and staff at the Dave Gates Generating Station near Anaconda.

Committee Reviews Legislative Proposals

Committee members also discussed several bill drafts. Members agreed to work on draft legislation in response to questions raised about rural electric cooperatives related to transparency, organization, and decision-making processes. Questions were brought to the committee following Southern Montana Electric Generation and Transmission's October 2011 decision to file Chapter 11 bankruptcy.

The ETIC instructed staff to work with rural electric cooperatives to fine-tune proposed legislation and to post the legislation for a 30-day public comment period in advance of the July meeting. The draft legislation will be posted on the committee website in the next week. The ETIC in July will consider the public comment, respond, and may revise the draft. The ETIC would, before September 15, determine if it intends to introduce the bill in the 2013 session.

The committee also reviewed four bill drafts presented by the Public Service Commission clarifying Montana's renewable portfolio standard and revising the standard related to com-

petitive suppliers and utilities. The ETIC voted not to pursue the legislation.

The PSC also sent the ETIC a letter about the agency's interest in developing legislation that would shift the determination of "need" for certain electric transmission lines from the Department of Environmental Quality to the PSC. Under the Major Facility Siting Act, the DEQ makes a determination of public convenience and necessity, or need, for transmission siting. The ETIC said it is not interested in a policy change and will respond to the PSC in writing. Members expressed concerns with transferring transmission siting decisions from an executive branch agency to an elected body.

The ETIC meets July 16-17 in Billings. Additional information on the ETIC is available at: <http://leg.mt.gov/etic>. An agenda and related materials will be posted.

For more information contact Sonja Nowakowski at snnowakowski@mt.gov or 406-444-3078.

EQC Advances State Parks & Advisory Council Bill Drafts

Montana's State Parks would get their own governing body, separate from the current Fish, Wildlife, and Parks Commission, under a bill draft proposal moved forward by the Environmental Quality Council at a May meeting.

EQC members have proposed a few changes to the draft (LC9000) and will review those possible amendments at their July meeting before deciding whether to recommend the proposal to the Legislature in January.

The EQC gave preliminary approval to LC9000 a day after visiting Lewis and Clark Caverns State Park and Virginia City and Nevada City as part of the House Joint Resolution 32 study of state parks, outdoor recreation, and heritage resources.

The EQC decided not to move forward with two other bill drafts it had requested in March related to the HJR 32 study (LC9001 and LC9002). Those drafts would have moved the administration of Virginia City, Nevada City, and Reeder's Alley in Helena under the Parks Division at the Department of Fish, Wildlife, and Parks without making them state parks. Currently, state-owned properties at those locations are attached to the Department of Commerce and overseen by the Montana Heritage Preservation and Development Council (MHC). The MHC would have been disbanded under LC9001, and LC9002 would have transformed the MHC into an advisory council to a new parks, recreation, and heritage board.

Preliminary Approval Given Two Other Bill Drafts

The EQC gave the green light to two other bill drafts that grew out of the its House Bill 142 responsibilities. HB 142 requires interim committees to review all statutorily-required agency reports and all statutorily-established advisory councils.

After reviewing the Air Pollution Control Advisory Council in March, the EQC requested a bill draft (LC9021) to eliminate that council. The Department of Environmental Quality, to which the council is attached, recommended disbanding the group because, the agency says, the council has been ineffective in providing advice to DEQ. The department has had difficulty recruiting and retaining council members and attributes part of the problem to the complex nature of air regulatory issues. Instead, DEQ says it is evaluating the benefits of streamlining stakeholder involvement with the Clean Air Act Advisory Committee, which has been active since the early 1990s.

The EQC gave preliminary approval to LC9020, which relates to the Department of Natural Resources and Conservation's work to identify parcels in the wildland-urban interface. Statute required DNRC to complete this inventory by January 1, 2012. The DNRC reported to the EQC in March that it has finished the task. As such, the EQC requested LC9020 to cleanup 76-13-145, MCA, by removing the Jan. 1 deadline and the requirement that DNRC report its progress to the EQC.

Both LC9020 and LC9021 will be sent out for a 30-day public comment period later this summer before the EQC decides whether to send the bill drafts to the 2013 Legislature.

The EQC meets July 18 and 19 in Helena. Meeting materials will be made available about two weeks in advance on the EQC's website at <http://leg.mt.gov/eqc>.

Questions about the EQC may be directed to staffers Joe Kolman (406-444-3747 or jkolman@mt.gov) or Hope Stockwell (406-444-9280 or hstockwell@mt.gov).

Law and Justice Panel Approves Restorative Justice Legislation

At its April 19-20 meeting, the Law and Justice Interim Committee approved several preliminary bill drafts as committee bills and will continue to work on other bill drafts in June.

The committee's main focus this interim has been the Senate Joint Resolution 29 study of restorative justice and the development of recommendations for the next Legislature.

The idea behind restorative justice is to establish criminal justice practices that elevate the role of crime victims and

community members in the criminal justice process and that hold offenders directly accountable to the people and communities they have harmed. Restorative justice is aimed at restoring emotional and material losses and providing a range of opportunities for victims and offenders. It promotes community dialogue, negotiation, and problem solving to bring about a greater sense of justice, repair harm, provide restitution, reduce incarceration and recidivism rates, and increase public safety.

Restorative Justice, Other Proposals

The committee has also been examining other law and justice topics. In April, the committee approved as committee bills proposals on restorative justice and on other subjects. The following is a list of preliminary bill drafts by working bill draft number:

- LClj04: allowing the temporary emergency detention and evaluation of a person if the person is substantially unable to provide for the person's own basic needs due to a mental disorder;
- LClj5A: authorizing judges to make participation in a victim-centered community-driven restorative justice program a condition of a suspended or deferred sentence;
- LClj5B: establishing a restorative justice program under the Montana Board of Crime Control to provide matching funds to communities interested in establishing victim-centered, evidence-based restorative justice programs;
- LClj5C: requiring the Department of Corrections to establish victim impact panels as a required part of cognitive-behavioral classes in Montana's state, regional, and private prisons;
- LClj5D: establishing a restorative re-entry pilot project aimed at reducing recidivism and re-incarceration rates;
- LClj10 requiring the release of records of child abuse and neglect to certain law enforcement, prosecutorial, and child welfare entities and individuals, and requiring the Department of Public Health and Human Services to adopt an implementing rule; and
- LClj11: requiring that a landowner subject to an eminent domain action receive a copy of the Environmental Quality Council's eminent domain handbook.

In June, the committee will reconsider the following revised bill drafts:

- LClj1A: requiring the Department of Public Health and Human Services to establish a pilot program for the prevention of suicides in detention centers;

- LClj2A: requiring the Department of Public Health and Human Services to establish a statewide program for the prevention of suicides in detention centers; and
- LClj03: providing for the prevention of suicides in detention centers; requiring the adoption of administrative rules by the board of crime control; and providing for the distribution of funds for suicide prevention to detention centers.

The committee also requested a preliminary bill draft that would prohibit the Board of Pardons and Parole from requiring that an offender take a class that was not ordered by the court. The committee will consider the bill draft in June

The committee meets June 21-22 in Room 137 of the state Capitol. Other items on the agenda include:

- a discussion of statutory advisory councils under and reports by the Department of Corrections, the Board of Pardons and Parole, the Judicial Branch, and the Office of State Public Defender;
- presentations of agency bill draft proposals;
- testimony on the committee's restorative justice bills;
- testimony from judges on the Supreme Court's new rules of appellate and district court procedures;
- subpoenaed testimony concerning the Department of Fish, Wildlife, and Parks investigations of county law enforcement officers in Lake County.

The agenda and other material are posted on the LJIC website at <http://leg.mt.gov/ljic> before each meeting. Public comment on matters under the committee's jurisdiction are welcomed as scheduled on the agenda. Interested persons may sign up on the committee's website for electronic notification of meetings and website updates.

For more information about the committee, contact Dave Bohyer at 406-444-3592 or dbohyer@mt.gov.

Legislative Audit Committee Meets June 19

The Legislative Audit Committee meets June 19 in Room 172 of the state Capitol in Helena to review recent audits of state programs and services. The Legislative Audit Division anticipates reports on the following topics.

Financial compliance audits:

Montana State Lottery financial-compliance report for the two fiscal years ended June 30, 2011;

State of Montana financial report for the fiscal year ended June 30, 2011; and

Montana Single Audit Report for the two fiscal years ended June 30, 2011;

Information systems audits:

Montana Information Technology Act; and
Photocopier Security

Performance audits:

Office of the State Public Defender;
Vehicle Title Registration; and
Veterans' Homes

Audit follow ups:

Combined Health Information and Montana Eligibility System;
Property Reappraisal;
Tow Trucks;
Retirement Benefits; and
Food Service Licensing

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 university system. For more information, call the division at 406-444-3122 or visit <http://leg.mt.gov/audit>.

To report improper acts committed by state agencies, departments, or employees, call the division fraud hotline at 800-222-4446 or 444-4446 in Helena.

Legislative Council Works on Capitol Security, Rules, Session Planning in May

The Legislative Council and two subcommittees met in early May. The Rules Subcommittee met May 2 to review a list of options to revise House and Senate rules and joint rules. Bill drafts will be prepared from those options for consideration at the August meeting.

The Security Subcommittee reviewed security-related job descriptions and recommended an additional police officer be hired from October 2012 through June 2013. The Legislative Council adopted the previously considered proposal by a 9 to 3 vote. Legislative Services Division carryforward funds will be used to pay for the new officer. The position will be reevaluated by mid-February 2013 to determine whether

an additional officer should be authorized for the following biennium.

Council Sets Caucus & Orientation Dates, Tentative Session Calendar.

The council has scheduled Nov. 14-16 for legislative caucuses and legislator orientation. In addition, leaders of the 2011 session and 2013 session will meet Nov. 16 following the Revenue and Transportation Interim Committee meeting and again Nov. 17.

Tentative Dates, 2013 Session Legislative Caucuses, Orientation & Continuing Education Adopted by Legislative Council, May 2012	
Activity/Event	Proposed Dates (based on 2011)
<i>General election</i>	<i>Tuesday, Nov. 6, 2012</i>
<i>Veterans Day</i>	<i>Monday, Nov. 12</i>
Senate caucuses	Nov. 14, 10 a.m.
House caucuses	Nov. 14, 10 a.m.
Leadership Orientation (2 parts: President/Speaker/Majority and Minority leaders; and All leadership, inc. Whips/Caucus leaders)	Nov. 16 - 17 Dec. 3
Legislator Orientation	Nov. 14-16
Legislative Dinner	Nov. 14, evening
<i>Bobcat-Grizzly Game</i>	<i>Nov. 17</i>
<i>Thanksgiving Day</i>	<i>Nov. 22</i>
Rules Committee, Hearing on Rules and Training	Dec. 3, morning
Committee chair training	Dec. 3, afternoon
Additional Training, tent.	Jan. 2-4, 2013
Start of session	Jan. 7, noon
Law School for Legislators	Jan. 8, morning, joint session
Legislative Rules Training	Jan. 9 afternoon, joint session Add'l brown bags as possible.

The Council also adopted a tentative calendar for the 2013 session. Tentative dates include a 4-day transmittal break from Feb. 28 through March 3, a 4-day Easter break from March 29 through April 1. The 2013 Legislature is scheduled to adjourn April 27.

Because the session does not begin until Jan. 7, the Legislature is scheduled to meet on Saturdays in January. Information about the next session is available at: <http://leg.mt.gov/css/sessions/63rd/default.asp>

Joint Revenue Estimating Subcommittee.

The council reviewed options for a joint rule that would establish a Joint Revenue Estimating Subcommittee that would have the first crack at the House Joint Resolution 2 revenue estimates. The options were reviewed by the Revenue and

Transportation Interim Committee in April and they will be considered by Legislative Finance Committee in June. Council members requested a draft rule outlining how the subcommittee would work.

Representatives of the three committees will meet again sometime after the Finance Committee meeting to discuss next steps. The draft rule would include holding informational meetings on the various revenue sources early in the session. Another idea included starting the revenue estimating resolution in the Senate, but the idea was not included in the motion requesting the draft rule.

Proxy Votes, Other Matters

The council approved a request from the Education and Local Government Interim Committee for \$5,000 from the emerging issues budget to complete its interim work.

The council revised the guidelines for proxy votes in interim committee meetings. The new guidelines takes away the presiding officers discretion in allowing proxy votes and provides that: "Proxies are generally discouraged. For the exercise of a proxy to be valid, the deputized member shall hold a written proxy [on a specific question] from the absent member." The council agreed to look at additional changes at the next meeting.

The council reviewed potential legislation on eliminating the publication requirements of court rules, on revising legislative publications and printing, and on revising laws related to legislative payroll and benefits. The council deferred action on these proposals. The council agreed to submit appropriations bill draft requests on behalf of the governor's budget office.

The council discussed legislative budget matters for the next session and directed staff to review the number of land-line phones used during the session for potential cost savings.

The council has been discussing expanding the IT allowance for legislators to allow a small reimbursement for communications devices used for legislative work.

The council will meet Aug. 24. The council will approve the legislative branch budget for the next biennium for inclusion in the governor's budget. It will also decide on its legislative proposals for next session. The Rules Subcommittee will meet to adopt draft bills for consideration by the rules committees in December.

For more information and to view agendas, minutes, and meeting materials, please visit the Legislative Council's website leg.mt.gov/legcouncil, or contact Susan Byorth Fox at 406-444-3066 or sfox@mt.gov.

RTIC Winding Up Work on Two Interim Studies

In April, the Revenue and Transportation Interim Committee decided to wrap up the House Joint Resolution 13 study of simplifying individual income taxes and the Senate Joint Resolution 23 study of tax exemptions of nonprofit organizations.

Committee Finishes Nonprofit Tax Exemption Study

Nonprofit organizations listed under 26 U.S.C. 501(c) of the Internal Revenue Code are exempt from federal income taxation. Most exempt organizations must file a Form 990 with the Internal Revenue Service to maintain the tax exemption.

Many nonprofits in Montana are also exempt from state corporation license taxes. As part of the SJR 23 study, Megan Moore, committee staff, used information from Form 990 to estimate the amount of taxes nonprofit organizations with the highest levels of income would pay if they were subject to the state's corporation license tax. She said that imposing the corporation license tax on nonprofits could generate, under certain assumptions, as much as \$32 million a year.

Moore also analyzed the effect of limiting nonprofit income and property tax exemptions based on the nonprofit's proportion of income from charitable donations. However, the committee did not discuss this report. Both reports are available on the RTIC website. With these two reports, the committee has completed the elements contained in the SJR 23 study plan.

Sen. Jeff Essmann requested that the committee consider a bill draft that would require the Montana Department of Revenue to periodically review nonprofit tax exemptions to ensure that a nonprofit still qualifies for the exemption. Dan Bucks, department director, described the staffing requirements for the review and told the committee that it would likely take 5 years to complete the first review. Subsequent reviews would take much less time. The committee did not act on the request.

In July, the committee will review a summary report of the study and decide whether to include any findings or recommendations in the final report. The committee may also consider whether to request a bill draft to require the property tax exemption review.

HJR 13 Study of Income Taxation Coasts to a Stop

Committee staff presented two reports dealing with simplifying the state's individual income tax system. The purpose of the reports was to provide a starting point for discussing ways to simplify the system.

The first report, prepared by Jaret Coles, committee staff attorney, summarized Montana additions to and subtractions from federal adjusted gross income to arrive at Montana adjusted gross income. The report also included income tax deductions, exemptions, and credits. For each tax provision, the report showed the total amount of the Montana additions or subtractions, deductions, exemptions, and credits and the fiscal impact of the provision.

The second report, prepared by Jeff Martin, summarized past legislative proposals to simplify the state's income tax structure.

In 2001, the Legislature considered Senate Bill 173, a bill that would have generally revised the income taxation of individuals, partnerships, and small corporations by imposing the tax on a taxpayer's federal taxable income (with adjustments). The legislation would have eliminated most deductions from federal adjusted gross income, and most state-specific itemized deductions in computing net income.

Montana taxable income would have been the taxpayer's federal taxable income as adjusted. Federal personal exemptions and itemized deductions or standard deduction amounts would have been used in determining Montana taxable income. In general, married taxpayers would have had to file their state tax returns using the same filing status as their federal returns.

The report also summarized House Bill 671, enacted during the 1993 legislative session.

The legislation generally revised individual income tax laws (and corporate license tax laws). As enacted, HB 671 would have replaced itemized deductions with higher standard deductions and higher personal exemptions and would have imposed a single individual income tax rate of 6.75%. The legislation was overturned by Montana voters in November 1994.

Following staff presentations of the two reports, the committee informally concluded that it would be difficult to obtain a consensus on simplifying Montana's individual income tax system. One committee member noted that incremental simplification measures would likely fail.

In July, the committee will review a summary report of the study and decide whether to include any findings or recommendations in the final report.

Penalty and Interest Bill Draft, Other Topics

After a second look at a bill draft to revise uniform penalty and interest assessments for violation of state tax provisions, the committee directed staff to prepare a bill for introduction next session by request of the committee. The bill combines the concepts of two bills that were considered last session

(Senate Bill 199 and SB 411). The bill would amend existing provisions and would add new penalties for substantial underpayment of tax and for filing a fraudulent or frivolous return. The bill draft (LC9000) and a summary of the draft is available on the committee website under the April 26 meeting. The bill tracking number is LC0110.

Terry Johnson, principal fiscal analyst, Legislative Fiscal Division, compared general fund revenue collections through March of fiscal year 2012 with collections through March of fiscal year 2011. Johnson said collections in FY 2012 were up by \$91.8 million, or by 8.2%, over the same period last fiscal year. Most of the increase is attributable to individual income taxes and corporation license taxes.

Susan Fox, executive director, Legislative Services Division, discussed options for revising the Legislature's revenue estimating process. The options include establishing a legislative joint subcommittee to make recommendations on the revenue estimates adopted by the Revenue and Transportation Committee, introducing the resolution in the Senate, and revising transmittal dates for the resolution. The Legislative Council reviewed the options in May (see page 7 for related coverage), and the Legislative Finance Committee will consider them this month.

Linda Reed, president of the Montana Community Foundation, highlighted the findings of a Montana transfer of wealth study commissioned by the foundation. She said that over the next 10 years, Montanan's will transfer a significant amount of wealth to the next generation. The foundation is looking at ways local areas could benefit if a small portion of that wealth was invested in community foundations.

Dan Dodds, senior economist, Department of Revenue, reported on the tax credit for contributions to a qualified charitable endowment. The report is required by 15-1-230, MCA. Dodds summarized the number of claims and the total amount of the credit claimed by individuals and corporations.

He also described how the credit works, the effect of the credit on the state budget, the legislative history of the credit, and the use of the credit since it was first enacted in 1997.

The Montana Legislature has renewed the credit several times; it is due to expire Dec. 31, 2013.

Agency Reports

Lynn Zanto, administrator, Montana Department of Transportation, described the department's performance programming process. The goal of the process is to maximize an asset's useful life in the most cost effective way. Transportation assets include roads, bridges, rest areas and other facilities, and signs, guardrail, and equipment. Zanto said the department has one of the most effective asset management systems in the country.

Dan Bucks, director, Department of Revenue, reported on electronic and paper tax returns filed by individuals and businesses and on the amount of tax refunds paid to individuals. He described the implementation of Senate Bill 382 that requires the department to provide information to property taxpayers on capitalization rates and changes in indicators of valuation. Bucks also discussed a recent district court case dealing with the imposition of the telephone excise tax on pre-paid telecommunications services and recent legal challenges to the 6-year property reappraisal cycle.

The committee is meeting July 19-20 in Room 137 of the state Capitol. The agenda and meeting material will be posted on the committee website (<http://leg.mt.gov/rtic>) when available.

For more information about the committee, contact Megan Moore, committee staff, at 406-444-4496 or memoore@mt.gov.

IT Subcommittee Makes Recommendation to Government Efficiency Panel

The Select Committee on Efficiency in Government met May 14-15, at the Capitol in Helena. The committee has been looking at ways to improve government efficiency and effectiveness in health care, including Medicaid; information technology; and natural resources.

At the May 14 Information Technology Subcommittee meeting, panelists discussed several topics, including:

- the state's long-term strategy for mobile computing inside state government and through the state's web portal;
- cloud computing as a part of state information technology operations; and
- State, local, and university system use of electronic content management tools to enhance efficiency.

The subcommittee adopted several recommendations for the full committee's consideration.

Committee Reviews Health Care Policy

On May 15, the full committee acted on bill drafts dealing with health care and the state Medicaid program:

- LCSC01 – 72-Hour Presumptive Eligibility Program
- LCSC02 – Outcomes-Based Planning
- LCSC03 – Pay for Performance
- LCSC10 – Transfer of Assets
- LCSC11 – Mental Health Unit Billing
- LCSC12 – Medicaid Application

The committee requested staff to submit formal bill drafting requests for the proposals except for LCSC11, which was tabled. The drafts are on the SCEG website and will be revised to incorporate the committee's revisions before the September meeting.

The committee decided to send a letter to the Department of Public Health and Human Services and the Department of Administration regarding a contract for Utilization Review of Children's Mental Health Services. The letter states that the committee has recommended funding the contract only at a level necessary to meet the federal minimum requirements and that the successful vendor be made aware of the committee's recommendation. The letter also pointed out that the next Legislature may fund services at a different level than the services identified in the request for proposals documents. A copy of the letter is on the committee website.

DPHHS staff described the Child and Adolescent Needs and Strengths assessment tool. Committee members asked DPHHS Director Anna Whiting Sorrell how the department intends to engage with stakeholders and providers to plan for, estimate the cost of, and design an implementation strategy in light of the implications to Montana's Medicaid program under federal health care reform. They also asked her about the development of a Medicaid reimbursement model based on the measurement and reporting of specifically described outcomes. Whiting Sorrell said that the department intends to engage with stakeholders and providers in the same manner as it does now.

A panel discussed other states' health care programs. Panelists included: Tracy Turner, applications and operational support manager, Oklahoma Health Care Authority; Jeremy Vandehey, director, Legislative and Government Affairs, Oregon Health Authority (by phone); and Brenda Nordlund, administrator, Montana Motor Vehicle Division.

The committee also heard ideas from outfitters and guides about government efficiency and their industry.

IT Subcommittee Recommendations

The Subcommittee on Information Technology made several recommendations to the committee, including:

- request that the Legislative Fiscal Division provide a comparison of state agencies' in-house data center services costs with State of Montana Data Center costs;
- request draft legislation to clarify that a requirement for keeping records "at the office" includes having the records available electronically;
- request an update on the state's chief information officer's project to develop a long-term strategy to provide

a stable, predictable, and affordable statewide network, including a discussion of funding for the project;

- request that the committee's final report encourage state agencies move toward mobile applications;
- request that the CIO provide an update on the jurisdictional issues related to cloud contracting;
- request draft legislation to study and create a records management collection, preservation, and management process while maintaining security and cost controls by using the Montana Electronic Records Initiative Strategic Plan prepared by the Electronic Records and Information Management Steering Committee, September 2008, as a starting point.

The Committee will review and act upon the draft legislation as soon as it is available and consider the other items at the committee's September meeting.

Legislative Staff Reports

Legislative staff reported on several topics. Diedra Murray, Legislative Audit Division reported on an audit assessment of DPHHS-Magellan's Utilization Review contract. Dave Bohyer, committee staff summarized a memo to state agencies requesting that they identify statutory requirements for notarization of documents or original signatures that could be repealed. Bohyer also discussed a memo about payments by state agencies of invoices from vendors and providers. Jason Mohr reported on the cost of creating a county septic permit database and on state programs for training workers for tomorrow's jobs.

The select committee is scheduled to meet June 18-19 at the MSU-Northern campus in Havre. More information about the June meeting in Havre, including building, room number, and starting times, will be posted on the committee's website as soon as details are confirmed.

More information about the select committee can be found at <http://leg.mt.gov/sceg>, or by contacting Dave Bohyer, lead staff, at dbohyer@mt.gov or 406-444-3592.

Admin Committee to Meet with Finance Committee on Public Pensions

The State Administration and Veterans' Affairs Interim Committee meets June 11-12 to consider state agency legislative proposals, conduct the House Bill 142 review of statutory advisory councils and required reports, and review various "test proposals" for dealing with unfunded liabilities in the public retirement systems.

On June 11, the Department of Administration, the Department of Military Affairs, the Commissioner of Political

Practices, and the Secretary of State will present their legislative proposals for 2013 session. The committee will decide whether to submit bill drafts requests on behalf of the agencies.

The committee will also review a draft of a committee bill requesting a study of the powers, duties, and structure of the Office of Commissioner of Political Practices.

On June 12, the committee will meet jointly with the Legislative Finance Committee. The committees will consider bill drafts from the Teachers' Retirement Board and the Public Employees' Retirement Board.

Staff of Legislative Services Division and the Legislative Fiscal Division will present a report on the policy, legal, fiscal, and financial implications related to various ideas for fixing the growing unfunded liabilities in the public retirement systems.

The report will propose a framework for staff analysis of any legislative proposal affecting the retirement systems. The scenarios, or test proposals, to be analyzed by LSD and LFD staff in the joint report include:

- meeting the shortfall in pension contributions only by increasing employer contributions;
- meeting the shortfall in pension contributions by increasing current and future employee and employer contributions without benefit changes;
- meeting the shortfall in pension contributions by providing supplemental contributions from the state general fund without benefit changes;
- reducing or eliminating the guaranteed annual benefit adjustment for current and future retirees; and
- freezing the current defined benefit plans and moving new employees to a defined contribution plan.

Staff will discuss whether the approach is consistent with pension policy principles and best practices, whether the approach could be considered unconstitutional under existing case law, how the approach stacks up as part of a long-term funding policy, how much each approach would cost state and local governments, and how the approach might affect government budgets.

The agenda and other material are posted on the SAVA website at <http://leg.mt.gov/sava> before each meeting. Public comment is welcomed as scheduled on the agenda. Interested persons may sign up on the committee website for electronic notification of meetings and updates.

For more information about the committee, contact Sheri Scurr, committee staff, at 406-444-3596 or sscurr@mt.gov.

Water Policy Panel Takes Exempt Well Study to Western Montana

Montana residents are encouraged to speak their piece regarding the use of ground water without the requirement of a permit during a series of meetings in June.

The committee meets in Bozeman, Kalispell, and Hamilton. Those areas experienced an influx of exempt wells in recent years. That activity, along with proposals to revise the law and administrative rules, prompted the 2011 Legislature to require the WPIC to study exempt wells. The legislation requires that the committee provide a report to the 2013 Legislature “that provides clear policy direction and necessary legislation to guide Montana’s policy” on exempt wells.

While the meetings take place in western Montana, the issue and proposed legislation could have statewide effects.

An exempt well is a water well that pumps at a rate of less than 35 gallons per minute and produces less than 10 acre feet of water a year and does not require a permit prior to drilling. It is estimated that a home with an acre of lawn uses less than 2.5 acre-feet a year. (An acre foot is equivalent to a foot of water covering a football field).

Water use permitting is dictated by law and administered by the Department of Natural Resources and Conservation. The agency determines if water is physically available and if existing water users would be harmed by the proposed diversion. This includes an analysis of the effect a ground water well may have on a river or stream.

Current water users may object to the permit application and the applicant may have to change the proposal or perform mitigation in order to obtain a permit. That analysis does not apply to exempt wells.

There are more than 113,000 exempt wells statewide. About 56,000 exempt wells have been drilled since the current law took effect in 1991. Of those, about 26,000 were drilled for domestic purposes in areas of the state that are closed to most types of surface water appropriations.

The WPIC study must:

- determine the number of existing wells and estimate how many wells may be drilled over the next decade;
- summarize the beneficial uses of water from exempt wells;
- analyze the amount of water necessary for various uses compared to the amount allowed by law;
- explore options to provide accurate measurement of exempt well water use;

- examine options to ensure exempt wells don’t exceed allowed limits or affect other users;
- examine applicable research and analysis conducted by the ground water investigation program at the Montana Bureau of Mines and Geology;
- analyze how water appropriated by exempt wells may affect surface water appropriations; and
- examine the legal options for integrating exempt wells into the principle that first in time is first in right when senior water rights are not fulfilled.

The WPIC also must study:

- the statutes, rules, programs, and policies of other states for exempt wells, including legal challenges;
- the adequacy of existing programs and tools including controlled ground water areas, mitigation banks, community water system incentives, and in-lieu-of-fee programs;
- the relationship between exempt wells and land use decisions, including the relationship between exempt wells and individual septic systems, the cost comparison of installing public water systems or extending existing water infrastructure, and the role of local governments in requiring alternatives to exempt wells; and
- the rulemaking authority of the DNRC in relation to the statutory policy and purpose provided for in law.

The committee wants public comment on five proposed bills related to exempt wells, as well as other ideas. The proposed bill drafts are:

- Establishing by law that the water used by exempt wells in the counties of certain size must be offset with mitigation water. (LC8000)
- Requiring that larger, denser subdivisions install public water systems, which would most likely also require a water use permit. (LC8001)
- Reducing the volume allowed under the exemption. (LC8002)
- Lowering the exemption limit on volume for wells drilled in unconfined aquifers, which are more likely to be connected to surface water used by senior water right holders. (LC8003)
- Limiting new subdivisions to an exemption of 35 gallons a minute and 10 acre-feet a year using one or more wells. Appropriations of more water would be subject to permitting. (LC8004)

The scheduled meetings to provide comment are:

June 19, Bozeman, Gallatin County Courthouse, 311 W. Main St., Rm. 306, 7 p.m.

June 20, Kalispell, Red Lion Inn, 20 N. Main St., 7 p.m.

June 21, Hamilton, Bitterroot River Inn, 139 Bitterroot Plaza Dr., 7 p.m.

July 12-13, Rm. 172, State Capitol

Sept. 10-11, Rm. 172, State Capitol

Comments also may be made in writing to Water Policy Interim Committee, Room 171B, State Capitol Building, P.O. Box 201704, Helena, MT 59620-1704, or by email to jkolman@mt.gov

For more information visit www.leg.mt.gov/water or contact Joe Kolman, committee staff, at 406-444-3747 or jkolman@mt.gov.

Back Page

Montana: A Snapshot

Maureen Theisen

Legislative Environmental Policy Office

In Garrison Keillor's mythical town of Lake Wobegon, the women are strong, the men good-looking, and the children all above average.

So what about the people in this place we call home? Are Montanans above average? The census data give us some clues.¹

Room and a view

We live in one of the least populated states in the country. At last count, Montana had close to a million people in a state with an area over 93 million acres—an estimated 6.8 persons per square mile. By comparison, New Jersey, the most densely populated state, had 1,195.5 persons per square mile.

Five states with the lowest population density	Persons per square mile
Alaska	1.2
Wyoming	5.8
Montana	6.8
North Dakota	9.7
South Dakota	10.7

Where we live

Just over half of Montana's population lives in the five most populated counties: Yellowstone, Missoula, Flathead, Gallatin, and Cascade. Still, 64.7 percent of us live in areas classified as rural by the U.S. Census Bureau (open country and settlements with fewer than 2,500 residents), a small decrease

from 1980.² Billings is our largest city and Ismay our smallest incorporated town.

What we live in

In the census state rankings for 2008, Montana placed 30th in the percentage of people who owned their own homes (70.3 percent). Almost 12 percent of the population lived in mobile homes. In 2010, an estimated 1,616 Montanans (0.16 percent) were homeless.³

Where we came from

Our ancestors mostly emigrated from Northern and Western Europe, particularly Germany and the British Isles. American Indian and Alaska natives comprise about 6.3 percent of our population, a rank of 5th behind Alaska, New Mexico, South Dakota, and Oklahoma.

American	6.1%	Lithuanian	.1%
Arab	.2%	Norwegian	9.9%
Czech	.9%	Polish	2.1%
Danish	1.5%	Portuguese	.3%
Dutch	2.7%	Russian	1%
English	13%	Scotch-Irish	2.6%
French (except Basque)	4.1%	Scottish	3.3%
French Canadian	1%	Slovak	.1%
German	29.1%	Subsaharan African	.1%
Greek	.3%	Swedish	3.4%
Hungarian	.4%	Swiss	.6%
Irish	16.1%	Ukrainian	.3%
Italian	3.6%	Welsh	1.1%

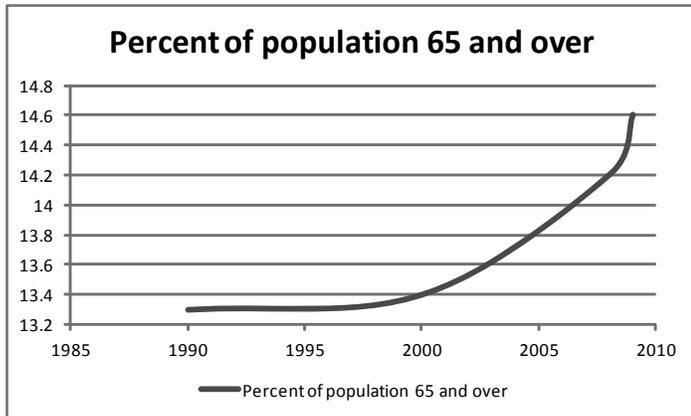
¹ The U.S. Census, mandated by Article I, section 2, of the U.S. Constitution, counts U.S. residents every 10 years. The last census occurred in 2010. All information for this article was taken from the census data unless otherwise noted. For more information about the data see www.census.gov.

² <http://www.ers.usda.gov/StateFacts/MT.htm>

³ <http://www.mthomeless.org> (homeless as defined by HUD)

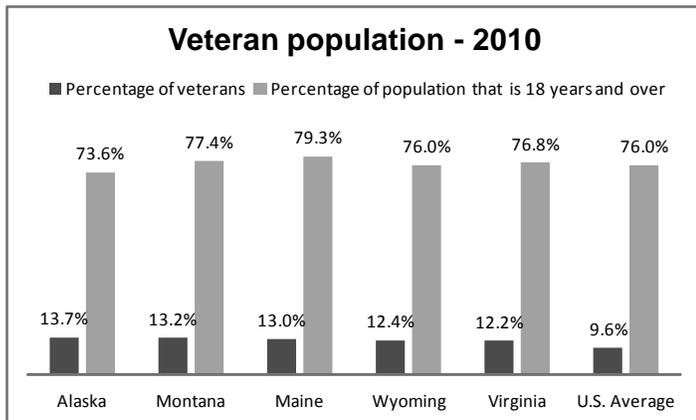
We're older than average

Florida had the highest percentage of people 65 years and older in 2008 and Alaska the lowest. Montana ranked 10th. In the last two decades, the percentage of residents 65 and older has been on an upward trend.



A neighbor is likely a veteran

The census estimated the veteran population in Montana at 17.2 percent in 1990 and at 13.2 percent in 2010, the second highest ratio in the country. The decrease over the two decades is attributed to the aging WWII veteran population.



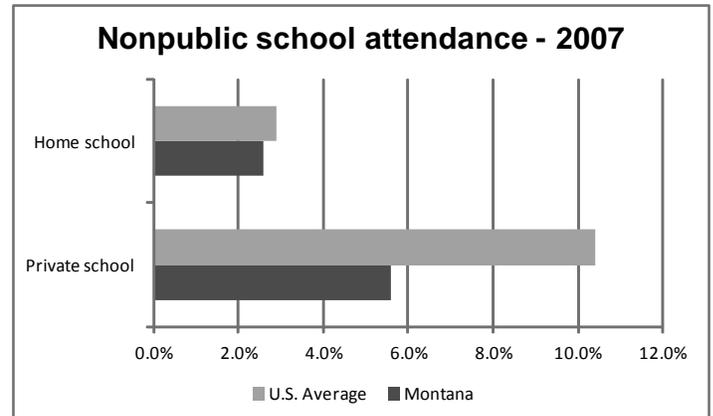
Behind the wheel

According to the 2006-2010 American Community Survey, about three quarters of Montanans drive alone to work. Our mean travel time is 17.7 minutes, compared to the national average of 25.2 minutes.

Montana ranked first in traffic fatalities per 100 million vehicle miles traveled in the census state ranking for 2007. Our neighbors Wyoming and Idaho ranked 16th and North Dakota ranked 23rd.

We graduate from public schools

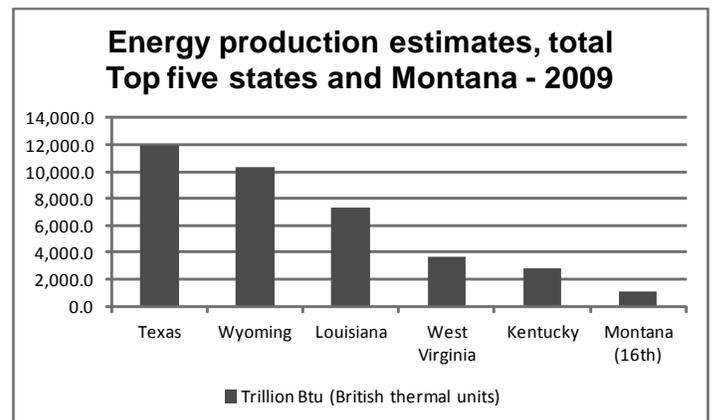
Montana has a higher percentage of high school graduates than the national average, ranking 22nd among the 50 states in 2010. College graduation rates for both Montana and the U.S. were 27.9 percent.



Nationally, about twice the rate of students attend private school as do Montana students. Home schooling rates for Montana and the nation are nearly the same.⁴

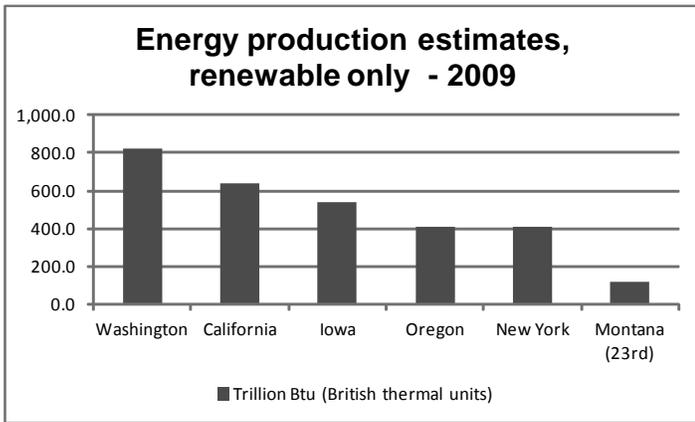
Energy production and use

Montana produces more energy than it uses. In 2009, it ranked 16th among state energy producers. About 10 percent of the energy we produce is renewable.⁵



⁴ Montana data are from the Montana Office of Public Instruction. National data are based on information from the National Center for Education Statistics.

⁵ http://www.eia.gov/state/seds/sep_prod/pdf/P5.pdf



Montana is a high energy user in relation to other states. Our consumption is driven mostly by industrial and transportation energy use. For residential energy use, over half of households heat their homes with utility gas, about 0.1 percent use solar, and an estimated 8.3 percent use wood stoves.

Economic drivers

Montana exported about \$1.5 billion worth of products in 2009 with bulk wheat, inorganic chemicals, and industrial machinery being the state's top three exports. Over half of the products were purchased by Canada, the Republic of Korea, mainland China, Japan, and Taiwan.⁶

Agriculture and ranching

Montana is an agricultural state, ranking second in the U.S. in the amount of land in farms and ranches (60.8 million acres). Organic agriculture comprises less than a half percent of total production. And yes, there are more cattle than people, an estimated 2.5 million.

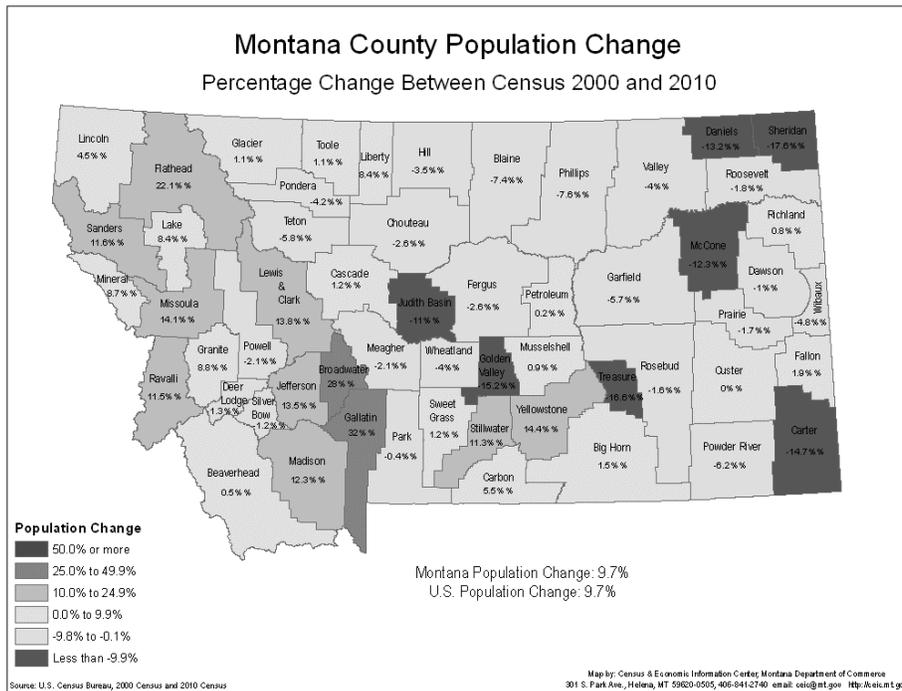
Dry and not so dry

Montana ranks 37th in the percentage of total area that is water (1 percent). Rhode Island ranks the highest with 17 percent and New Mexico the lowest with 0.2 percent.⁷ According to the national Brewers Association, in 2010 Montana ranked 3rd in the number of per capita breweries, behind Vermont and Oregon.⁸

One million and counting

Montana is growing at the same rate as the U.S. average, although the growth is not evenly distributed statewide. It is estimated that in 2012-2013, the state's population will for the first time hit one million.

Energy consumption per capita - 2007	
Top 6 States	Million Btu
Alaska	1,062
Wyoming	949
Louisiana	861
North Dakota	671
Texas	496
Montana	483



⁶ <http://www.exportmontana.com/annualexportstats.mcp> and <http://www.ceic.mt.gov/MtByNumb.asp>

⁷ <http://ga.water.usgs.gov/edu/wetstates.html#.T6vW1FJPYSg>

⁸ http://www.brewersassociation.org/attachments/0000/6291/Capita_perbrewery.pdf

Calendar of Legislative Events

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

June						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
					1	2
3	4	5	6	7	8	9
10	11 Economic Affairs Committee, Rm 172, 9 a.m. Legislative Finance Committee, Rm 137, time TBA State Administration & Veterans Affairs Committee, Rm 102, 1 p.m.	12 Economic Affairs Committee, Rm 172, 9 a.m. Economic Affairs Committee - Subcommittee on Rural Volunteer Firefighter Work Comp, Rm 172, 2 p.m. Legislative Finance Committee and State Administration & Veterans Affairs Committee, Rm 102, 8 a.m.	13	14	15	16
17	18 Education & Local Government Committee, Rm 137, time TBA Select Committee on Efficiency in Government, Havre, room & time TBA	19 Legislative Audit Committee, Rm 172, time TBA Select Committee on Efficiency in Government, Havre, room & time TBA Water Policy Committee, Bozeman, Gallatin County Courthouse, Rm 306, 7 p.m.	20 Water Policy Committee, Kalispell, Red Lion Inn, 7 p.m.	21 Law & Justice Committee, Rm 137, time TBA Water Policy Committee, Hamilton, Bitterroot River Inn, 7 p.m.	22 Law & Justice Committee, Rm 137, time TBA Legislative Consumer Committee, Rm 152, 1:30 p.m.	23
24	25 Children & Families Committee, Rm 137, time TBA	26	27	28	29	30

July						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2	3	4	5	6	7
8	9	10	11	12 Water Policy Committee, Rm 172, time TBA	13 Water Policy Committee, Rm 172, time TBA	14
15	16 Energy & Telecommunications Committee, Billings, room & time TBA	17 Energy & Telecommunications Committee, Billings, room & time TBA	18 Environmental Quality Council, room & time TBA	19 Environmental Quality Council, room & time TBA Revenue & Transportation Committee, Rm 137, time TBA	20 Revenue & Transportation Committee, Rm 137, time TBA State-Tribal Relations Committee, room & time TBA	21
22	23	24	25	26	27	28
29	30	31				

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