



THE INTERIM

August 2011

A monthly newsletter of the Montana Legislative Branch

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

Legislative Audit Division Recognized for Achievements

A peer review by a national standards group gave high marks to the Montana Legislative Audit Division for its audit performance.

From June 20-24, a team of five experts from other states' audit organizations evaluated the work of the audit division. The team – with members from Illinois, Louisiana, Missouri, Ohio and Wyoming – issued an outstanding opinion, acknowledging adherence to professional standard and legal and regulatory requirements. Auditing standards set by the federal General Accountability Office requires the peer review every three years.

Legislative Auditor Tori Hunthausen was pleased with the peer review team's findings. The review team issued an unqualified opinion of the division's work, she said. And the team did not issue a comment letter, which can be used to point out small deficiencies.

"It's about as clean as you can get it," Hunthausen said. "Thanks to the work of a qualified group of professionals at LAD, taxpayers can be assured that our work provides factual and objective information on the state's activities."

A peer review includes a review of audit documentation, tests of functional areas, and staff interviews. High-quality auditing is essential for government accountability and providing information for making improvements in government operations, according to Hunthausen.

Members of the Legislative Audit Committee praised her and the division.

"We'd like to say thank you for a job well done," said Sen. Mitch Tropila of Great Falls, chair of the audit committee. "We can be assured that taxpayer money is being spent wisely throughout the state of Montana."

Sen. Taylor Brown of Huntley said the division's work results in a "dramatic payoff" for Montanans and indicates the division has "great management and great people in place."

The next peer review will occur in 2014.

The division provides independent, objective, fact-based, non-partisan assessment of stewardship, performance, and cost of government programs.

In July the National Legislative Program Evaluation Society awarded a Certificate of Impact to the Legislative Audit Division for its work on State Vehicle Fleet Management (09P-04). Certificates of Impact recognize performance audits or program evaluations which have documented public policy impacts. The State Vehicle Fleet Management report was acknowledged for cost savings, program improvements, and positive impacts that have resulted from the implementation of the report's recommendations.

Russian Delegation Visits Montana, Confers with Audit Division

A Russian delegation studying government practices praised the Legislative Audit Division, during a recent visit to the state Capitol.

A delegation of leaders from the Russian Federation visited representatives of the division June 20 to discuss government oversight in strengthening state and local government. The Montana Center for International Visitors in Bozeman hosted the delegation as part of the Open World program, a non-partisan initiative of Congress designed to build mutual understanding between the United States and Eurasian nations.

The program provides mayors, legislators, judges, civil servants, educators and entrepreneurs from across the former Soviet Union the opportunity "to know the real America," according to the program's website, openworld.gov. The delegation spent June 18-26 in Montana.

While in Montana, the delegates traveled around Helena and Bozeman to meet with mayors and other professionals. They discussed everything from the citizens' role in local government to land use and property issues. Helena resident and interpreter Tatiana Lukenbill accompanied the group.

During their visit at the Capitol, the delegates discussed the role, responsibility, and authority of the audit division in state government, including the types of audits conducted by staff. Audit division staff discussed recently conducted audits on wildfire administration, land banking, and preservation of historical artifacts and resources.

At the end of their visit, the delegates commented on the high level of professionalism and responsibility demonstrated by division staff and the clarity with which staff described their roles and responsibilities.

Children & Families Committee Sets Priorities, Elects Officers

The Children, Families, Health, and Human Services Interim Committee decided in June to monitor Medicaid, along with conducting two studies that focus on children.

The committee agreed to add Medicaid monitoring to allow members to learn more about developments at the national level that may affect the health care program for low-income people. Members also want to review steps that other states have taken on cost and coverage issues related to the program.

Committee members decided to divide their time equally among their various duties. As a result, they'll spend about 20% of their meeting time on each of the following items:

- Medicaid monitoring,
- the House Joint Resolution 8 study of childhood hunger in Montana;
- the Senate Joint Resolution 30 study of childhood health trauma;
- oversight of the Department of Public Health and Human Services; and
- the review of statutorily required advisory councils and reports required by House Bill 142 and the review of the implementation of Senate Bill 423, which made substantial changes to the law allowing use of marijuana by a person with a debilitating medical condition.

The committee also decided to conduct the HJR 8 study in the first half of the interim and the SJR 30 study during the second half.

Committee Requests Comment Extension for Proposed Rule

In the course of reviewing administrative rules proposed by DPHHS, the committee heard from the public about confusion over a proposed rule that would reduce the payment rate for some providers of Medicaid services. Speakers said the department posted incorrect information about the rates, making it difficult for them to provide informed comment during the scheduled public hearing on the rate change.

Committee members formally asked DPHHS to extend the public comment period and hold another hearing, in order to allow interested parties to submit comments based on accurate information.

The department subsequently agreed to extend the public comment period and also held a second hearing on the proposed rule in July.

Officers Elected

Committee members elected Sen. Jason Priest, R-Red Lodge, as the presiding officer and Sen. Mary Caferro, D-Helena, as vice presiding officer.

Next Meeting Set for Sept. 19

The committee will meet Sept. 19 in Room 137 of the Capitol. Tentative agenda items include:

- adoption of a revised interim work plan and revised plans for the HJR 8 and SJR 30 studies;
- an overview of the Montana Medicaid program and information related to the national discussion of creating a block grant program for Medicaid; and
- for the HJR 8 study, a review of existing state and local programs that seek to alleviate childhood hunger and discussion of gaps in those programs.

The meeting time, agenda, and related materials will be posted to the committee's website -- www.leg.mt.gov/cfhhs -- as they become available. For more information about the committee or its activities, contact Sue O'Connell, committee staff, at 406-444-3597 or soconnell@mt.gov.

Redistricting Panel Adopts Method for Drawing District Maps

The Montana Districting and Apportionment Commission met July 12 to discuss and adopt the process it will use to draw 100 state house and 50 state senate districts. The commissioners also discussed how to receive redistricting plans submitted by members of the public and encouraged the public to contact them regarding redistricting.

The commission debated two options on district line-drawing. Option A is a statewide approach in which the commission would take several complete statewide maps around to a series of public hearings and gather public comment. After hearing comments on the maps, the commissioners would meet to amend and adopt a map that it would later present to the 2013 Legislature.

Option B is the regional approach used by several previous commissions. In that approach, the commission would develop maps for one region of the state, hold public hearings in that region on the maps, and then tentatively adopt one of the maps for the region before repeating the process in other regions. The final statewide map would be made up of the regional maps.

After debating the options and taking public comment, the commission voted to use the statewide approach.

The commission also instructed legislative staff to develop up to five maps for the commission and public to consider. The maps would include ones to:

- emphasize clear lines between population centers and rural areas;
- use the existing district lines as a starting point for new lines;
- emphasize the districting criterion on relative population equality between the districts; and
- attempt to keep political subdivisions intact when possible.

The commissioners reiterated that all maps must protect minority voting rights and comply with the Voting Rights Act, as is required by one of their districting criteria. The commission adopted districting criteria in May 2010 and will use them when judging and voting on maps. The criteria are based on state and federal laws that govern the redistricting process in all the states.

The commission tentatively plans to travel the state with draft maps in early 2012 to take comments from the public on the maps.

Members of the public are encouraged to write or email the commission about how districts should look in their area. The commissioners especially encourage comments that take into account the mandatory and discretionary criteria. In particular, the commissioners want to know about "communities of interest." According to the criteria, a community of interest "can be based on Indian reservations, urban interests, suburban interests, rural interests, neighborhoods, trade areas, geographic location, communication and transportation networks, media markets, social, cultural and economic interests, or occupations and lifestyles."

All comments will be copied and distributed to each commissioner and become part of the commission's permanent public record. Commissioners and staff will use the comments when drawing and evaluating various maps.

Send written comments to Montana 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.

A revised copy of the operating procedures adopted by the commission will be available soon at leg.mt.gov/districting. The commission's districting criteria and other information about the commission and its work are available on its web page.

For more information about the commission, contact Rachel Weiss at 406-444-5367 or rweiss@mt.gov.

Economic Affairs Committee to Review Licensing Boards, Insurance Exchanges, & Ag Concerns

At its Aug. 23-24 meeting, the Economic Affairs Interim Committee will review four occupational licensing boards, consider presentations on health insurance exchanges, and hear stakeholder views on a commodity bonding study. The committee will meet at 9:30 a.m., Aug. 23 and at 8:30 a.m., Aug. 24. Both meetings will be in Room 137 of the state Capitol.

House Bill 525 requires a review of licensing boards to determine if they meet various requirements and remain necessary for public health, welfare, or safety. The committee will review 17 boards this interim, which is one-half of all licensing boards attached to the Department of Labor and Industry. In addition to board members responding to topics posed by HB 525, a survey is available for licensees and members of the public to comment on the licensing boards. As of mid-July 444 persons had responded to the survey, which is available through the committee website. Click on the HB 525 assigned study link or visit <https://www.surveymonkey.com/s/7PN7HY3>. Survey responses will be provided to the committee at each meeting this interim. The first reviews will be of the Board of Dentistry and the Board of Pharmacy Aug. 23 and the Board of Chiropractors and the Board of Veterinary Medicine Aug. 24.

Other items on the Aug. 23 agenda include:

- a panel discussion on how the Indian Health Service and Medicaid eligibility are expected to interact with a health insurance exchange, whether it is federal or state-run;
- a presentation from a federal health official with the Center for Consumer Information and Oversight regarding how a federal health insurance exchange might operate here and Montana options. The request was made with the assistance of Insurance Commissioner Monica Lindeen.
- updates from the Departments of Agriculture and Livestock regarding post-flooding, post-oil spill agricultural concerns and expansion of the designated surveillance area for brucellosis.

On Aug. 24 the committee will:

- hear a panel discussion from stakeholders involved in the Senate Joint Resolution No. 15 study on how to insure payments to the appropriate parties along each step traveled by an agricultural commodity. Stakeholders include representatives of the Montana Grain Growers Association and the Montana Grain Elevators Association, among others.

- complete decisions on a work plan, including how to review more than 30 advisory councils and advisory boards attached to agencies monitored by the committee, as required under House Bill 142, and whether any other topics may be considered.

Meeting materials are available on the committee website at leg.mt.gov/eaic or by contacting committee staff, Pat Murdo, at pmurdo@mt.gov or 406-444-3594.

Energy & Telecomm Panel to Take on One-Call Laws, Energy Projects

An examination of opportunities to improve Montana's one-call law and a review of recent energy projects in Montana will top the Energy and Telecommunications Interim Committee agenda for the 2011-12 interim.

The ETIC met July 15 to organize itself for the interim. Members elected Sen. Alan Olson, R-Roundup, as presiding officer and Rep. Tony Belcourt, D-Box Elder, as vice presiding officer.

The ETIC was not assigned any studies by the Legislative Council, so members discussed and determined what policy matters they felt were most deserving of a committee review. The committee also accepted public comment on its work plan development.

Montana's one-call laws, better known as a "Call Before you Dig" program, has been the subject of review by various stakeholders for the last couple years. The Pipeline and Hazardous Materials Safety Administration (PHMSA) is developing new federal rules to encourage states to strengthen one-call laws. The Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006 authorized PHMSA to develop the new rules and to take action if it is determined that a state's enforcement of pipeline safety regulations is inadequate. Montana's current one-call law fails to meet PHMSA standards, particularly in the area of enforcement.

The federal government establishes minimum pipeline safety standards under and the Office of Pipeline Safety within the U. S. Department of Transportation, which has overall regulatory responsibility for hazardous liquid and gas pipelines under its jurisdiction. In Montana that agency regulates and enforces interstate gas pipeline safety regulation. It also enforces both interstate and intrastate liquid pipeline safety requirements. The Gas Pipeline Safety Division of the Montana Department of Public Service Regulation regulates, inspects, and enforces intrastate gas pipeline safety requirements.

In Montana all underground facility owners must belong to a one-call system and respond to requests to locate facilities

– including pipes, conduits, fiber optics, cables, valves, lines, and wires.

If Montana fails to resolve the inadequacies of enforcement in its one-call laws under Title 69, chapter 4, part 5, MCA, the federal government may conduct civil enforcement against all one-call violators in the state. The ETIC intends to review the matter and options for improving the law. The committee asked stakeholders to continue working together and to report to the ETIC next January. ETIC members indicated they would like stakeholders to reach a consensus on how best to improve enforcement in Montana.

In the summer of 2012, the ETIC also will visit Signal Peak Energy's Bull Mountain Mine in Musselshell County and make a stop in Cascade County to check out a wind farm, hydroelectric facility improvements, and a natural gas plant.

The committee next meets Sept. 16 in Helena. Additional information on the ETIC is available at leg.mt.gov/etic. For more information contact Sonja Nowakowski at snowakowski@mt.gov or 406-444-3078.

ELG Represented at K-12 and Higher Education Board Meetings

Rep. Elsie Arntzen, chair of the Education and Local Government Interim Committee, has appointed four members of ELG to represent the committee at Board of Public Education and Board of Regents meetings. The appointments are part of an effort to advance the relationship between the interim committee and the state's K-12 and higher education governing organizations.

Sen. Tom Facey and Rep. Kristin Hansen will attend Board of Public Education meetings on behalf of the committee, and Sen. Bob Lake and Rep. Edie McClafferty will serve in that role at the Board of Regents meetings. Membership--both regular and ex-officio, nonvoting--to those boards is provided for in statute, so the legislators do not become members by virtue of the appointments. They will, however, provide a valuable point of contact for communication between ELG and the boards.

The Board of Public Education was created by 1972 Montana Constitution to exercise general supervision over the elementary and secondary schools of the state.

The board's website (bpe.mt.gov) provides the following details about its membership and duties:

- The Board consists of seven members appointed by the Governor and confirmed by the Senate to staggered seven-year terms. By statute, the Governor must appoint members to the Board so that not more than four may be from one of the two commission districts and not more

than four may be affiliated with the same political party. The Governor, the Superintendent of Public Instruction, and the Commissioner of Higher Education are ex-officio, non-voting members of the Board. In 1978 the Board added a student representative who is elected by the executive committee of the Montana Association of Student Councils to a one year term.

- The Board maintains offices in Helena with a staff of four people headed by an executive secretary.
- In addition to the constitutional mandate to exercise general supervision of the schools, the Board is assigned specific responsibilities by the Montana Legislature. A partial list of duties requires the Board to:
 - » adopt standards of accreditation for Montana schools and establish the accreditation status of each school;
 - » effect a system of teacher certification, including the accreditation of the teacher and administrator training programs;
 - » consider the suspension or revocation of teacher certificates and hear appeals from the denial of teacher certificates;
 - » administer and order the distribution of state equalization aid;
 - » adopt policies for the special education of handicapped and gifted and talented students; and
 - » act as the governing agency for the Montana School for the Deaf and Blind.

The Board of Regents governs the Montana University system. The board's website (mus.edu/board) states:

- [The Board] has full power, responsibility, and authority to supervise, coordinate, manage and control the Montana University System, and supervise and coordinate other public educational institutions assigned by law.
- The Board consists of seven members appointed by the Governor, and confirmed by the Senate, to seven year overlapping terms. One of the members of the board shall be a student appointed by the Governor who is registered full-time at a unit of higher education under jurisdiction of the board. The length of the term of the student member is one year with possibility of reappointment to successive terms.
- The Governor, Superintendent of Public Instruction, and the Commissioner of Higher Education are ex-officio members of the Board.

K-12 Performance Funding Study

One of the studies on ELG's docket this interim deals with performance-based K-12 funding and determining whether or not it is appropriate for Montana. The committee will be gathering information on the experiences of other states and will be soliciting opinions and suggestions from national experts as well as those who would be directly impacted by such a system: Montana educators and administrators.

Educator effectiveness and teacher compensation is emerging as a high-profile topic of discussion for state policymakers across the country, so there will be no shortage of relevant information and no dearth of opinions for ELG to consider. On July 14, some members of ELG participated in a webinar on the subject sponsored by the National Conference of State Legislatures. The recorded webinar is available on NCSL's website for anyone interested in learning about the issue. Go to nctl.org and click on the "Webinars" link near the bottom-left side of the main page. The recording appears in the "2011 Webinar Archive" list.

More Information

ELG will meet next Sept. 15-16 in Helena. For more information about the committee's activities, visit the website at leg.mt.gov/elgic or contact Leanne Kurtz at 406-444-3593 or lekurtz@mt.gov.

Law & Justice to Study Restorative Justice & Other Topics

The Law and Justice Interim Committee met June 21 to review the SJR 29 study of restorative justice, learn about its monitoring of the Department of Corrections, Department of Justice, Judicial Branch, and Office of State Public Defender, and identify a range of other topics to consider during the interim.

The committee also elected Sen. Jim Shockley, R - Victor, as presiding officer and Rep. Mike Menahan, D - Helena, as vice presiding officer.

Overview of Restorative Justice

The Legislative Council assigned the SJR 29 study of restorative justice to the committee. The committee reviewed a legislative staff background brief that outlined the major aspects of restorative justice.

Restorative justice is a criminal justice philosophy that emphasizes reparation to crime victims through negotiation, mediation, and victim empowerment. Some view restorative justice as an alternative to retributive justice with promising strategies for diverting offenders from lengthy incarceration, while others see it as supplemental to the current system. Restorative justice programs may be operated by community-

based organizations, may rely on church volunteers, or may be sponsored by state or local governments (e.g., correctional institutions, courts, or law enforcement agencies).

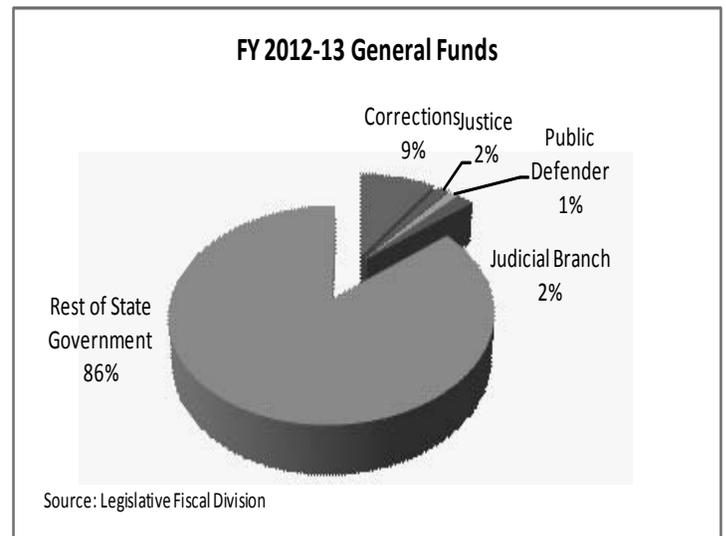
Specific examples of restorative justice processes include victim impact panels, family group conferencing, victim-offender mediation and dialogue, and peacemaking or sentencing circles.

Montana's state-level programs include a victim services office in the Department of Corrections and a restorative justice office in the Department of Justice. Montana statutes also provide for a mediation alternative in criminal proceedings.

Department of Corrections programs include victim-offender dialogue, victim impact panels, offender accountability letters, monetary restitution, and community restitution.

Agency Overviews

The committee also received overviews from each of its assigned agencies and from legislative staff. The following chart compares the FY 2012-2013 biennial general fund budget for each of the Committee's assigned agencies with the general fund budget for the rest of state government.



Committee takes on other policy matters

The committee also decided to examine the following topics during the interim:

- medical marijuana -- law and justice issues;
- jail suicide prevention -- followup on previous committee work;
- juvenile detention alternatives and disproportionate minority contact -- followup on previous committee work;

- involuntary commitment -- emergency detention vs. commitment standards;
- eminent domain -- appropriate compensation;
- SB 187 -- revising the Public Defender Act -- examine implementation, make adjustments;
- DNA evidence retention -- revisit previous committee work;
- social host ordinance -- revisit previous committee work;
- DUI per se drug impairment - revisit previous committee work;
- 24/7 sobriety program and other enacted DUI bills - monitor implementation;
- reciprocity on concealed weapons; and
- housing for released prison inmates.

Committee schedules September meeting

The committee will meet Sept. 9 to adopt an interim work plan and begin the study of restorative justice and other policy matters.

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

Legislative Audit Committee Reviews Audits

The Legislative Audit Committee met June 29 in Helena to review recent audits of state agencies and programs. The Legislative Audit Division issued nine audits. Audit findings included:

- The Montana Highway Patrol did not have complete documentation of ammunition distributions. (Department of Justice, 10-18)
- Two audits were conducted at the Department of Military Affairs. A financial-compliance audit found the department does not have adequate internal controls to ensure it complies with federal regulations for four federal programs. Regarding its Homeland Security grants, the department did not monitor sub-recipients in fiscal years 2009 and 2010 and did not spend funds according to federal guidelines, resulting in \$3.7 million in questioned costs. A performance audit found the department has not developed controls over its contract management. For example, sole source procurement was not always justified or appropriate. Additionally, department staff whose purchasing authority was limited to \$5,000 had signed contracts worth more than that amount. These contracts totaled nearly \$5.3 million. (Department of

Military Affairs, 10-25; Contract Management, Department of Military Affairs, 11P-06)

- Areas where controls over the Sexual or Violent Offender Registry (SVOR) system at the Department of Justice could be strengthened include user access, change management, and data integrity. For example, the department did not note on the system that address verification had not been provided from 26 percent of the total registered offenders. As a result, when members of the public access the website or law enforcement data, they will not be aware of an offender's failure to verify their registration. (Sexual or Violent Offender Registry, 11DP-08)
- The Department of Administration can improve access controls to the Statewide Accounting, Budgeting, and Human Resources System. (SABHRS: Procurement Card Processing and Select Access Controls, 11DP-04)
- The Department of Public Health and Human Services could improve user access, change management and data integrity controls for its Medicaid eligibility and information system, known as the Combined Healthcare Information and Montana Eligibility System (CHIMES) – Medicaid. (Combined Healthcare Information and Montana Eligibility System for Medicaid, 10DP-07)

Other audits included those from Dawson Community College, Montana Medical-Legal Panel, Montana Chiropractic Legal Panel. Presentations included follow-up reports to previous audits:

- Automated Licensing System
- Management Information & Cost Recovery System
- Reimbursement Office Business Practices
- State Printing of Public Documents
- Fantasy Sports Pari-mutuel Gaming
- Contract Management

In other business, Montana Lottery Director Angela Wong updated the committee on the steps her agency is taking to meet the six recommendations identified in an audit released in March.

Committee members re-elected Sen. Mitch Tropila, D-Great Falls, as chair. The committee also elected Rep. Wayne Stahl, R-Saco, as vice chair, and Sen. Cliff Larsen, D-Missoula, as committee secretary.

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 and programs, including the university system.

For more information, call the division at 406-444-3122 or visit 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 Reviews Session Activities, Makes Appointments

At its June 24 meeting, the Legislative Council discussed activities related to the 2011 session, including a Board of Labor Appeals complaint, medical marijuana litigation, and the status of referenda and initiatives. The council approved the Legislative Services Division operating budgets, which includes legislator interim activities and organizations. It also approved reversion of the 2009 LSD feed bill to the IT reserve account and approved funding of three IT projects from the IT Reserve account. The projects include moving Microsoft Access databases to Oracle, consolidation of the LAWS Oracle databases, and conversion from Novell servers to Microsoft Windows servers. These changes will make the databases more efficient, provide cost savings for the LAWS databases, and guarantee vendor support for the new servers.

Council Appoints Legislators to NCSL and CSG Committees

The council appointed legislators to various committees of the National Conference of State Legislatures and the Council of State Governments including the Legislative Council on River Governance. The appointments let NCSL and CSG know who is eligible to vote at the committee meetings. Except for the Council on River Governance, an appointment to a committee does not guarantee funding to attend meetings, but the organizations will provide relevant materials related to the committee. Each state is allowed one consensus vote on each committee at the respective meetings.

Appointments to NCSL and CSG as well as all other legislative appointments are posted on the Legislative Council website.

The council adopted a procedure for legislators to contact their appropriate leader to obtain access funding. Last session the Legislature provided enough funding for two legislators to participate in each organization each fiscal year, but it is up to each leader how much will be approved, which potentially allows more legislators to get a smaller allowance. For more information or for reimbursement forms, please contact Susan Fox.

Strategic Planning Session Scheduled for September

The council will meet Sept. 15 and 16, for a strategic planning session. It will hold a brief public business meeting before

meeting off-campus. Council members have already identified several initiatives that they are interested in. The planning session will allow members to prioritize actions and provide guidance for future legislative operation.

Board of Labor Appeals Hearing in October

Dan Whyte, Legislative Services Division attorney, will represent the Legislature at a hearing of the Board of Labor Appeals on an unfair labor practice complaint filed by the Montana Education Association and Montana Federation of Teachers because the Legislature did not pass the negotiated state employee pay plan. Whyte filed a response to the complaint July 7. A hearing is scheduled before a hearings officer Oct. 6 and 7. For more information, contact Whyte at 406- 444-3064 or dwhyte@mt.gov.

Sen. Ed Walker has replaced Sen. Bruce Tutvedt on the HB 642 Select Committee on Government Efficiency.

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.

State Administration Committee Decides on Study Topics

The State Administration and Veterans' Affairs Interim Committee held its organizational meeting on June 24 and elected Rep. Pat Ingraham, R-Thompson Falls, as chair and Sen. Kendall Van Dyk, D-Billings, as vice chair.

Because the Legislative Council did not assign any interim studies to the committee, SAVA chose four topics for study during the interim:

- exploration of options to deal with the unfunded accrued actuarial liability of the retirement systems. The Committee will review actions in other states and consider possible sources of funding;
- consideration of how retirement system liabilities are handled in the budgeting process;
- examination of whether to give the Commissioner of Political Practices increased authority to enforce election laws using Sen. Christine Kaufmann's Senate Bill 397 (2011) as a starting point; and
- study of the possibility of combining school board, municipal, and primary elections considering Rep. Mike Miller's House Bill 242 (2011).

The committee will receive background information and review and adopt study plans for these topics at the next meeting.

The following state agencies for which the Committee has monitoring duties provided updates: the Teachers' Retirement System, the Public Employees' Retirement System, the Department of Administration, the Board of Veterans' Affairs, the Department of Military Affairs, the Commissioner of Political Practices, and the Office of the Secretary of State.

The committee also voted unanimously to recommend to the governor that Sen. Larry Jent be appointed as the SAVA representative to the Board of Veterans' Affairs.

Finally, the committee discussed pension-related educational opportunities for members. The committee held conference calls on July 5 and July 6 and voted to send Sen. Ron Arthun,

R-Wilsall, and Jent, D-Bozeman, to the Legislative Summit sponsored by the National Conference of State Legislatures. The summit includes a pension track with three sessions devoted to the topic. Each senator was allocated \$1,200 from the SAVA budget for conference registration and travel. The money will remain in the SAVA budget if the senators are unable to attend due to lack of additional funding.

The committee is scheduled to meet Oct. 20 in Helena. For more information about the committee, contact Megan Moore at 406-444-4496 or memooore@mt.gov. Committee information is available at leg.mt.gov/sava.

The Back Page

Get Smart: Too Trendy to Talk

By Sonja Nowakowski
Legislative Research Analyst
Legislative Services Division

Your dialing days are over. If you think you are a cool cat because you carry a cell phone in your hip holster, you are quite mistaken. If you just want a "simple" cell phone that you can call people on, some might say you are delusional.

Cell phones are so 2010 -- talking in general is so 2007.

Consumer research company Nielsen Mobile tracked 50,000 individual wireless customer accounts in 2008 and found that the average number of mobile phone calls made peaked in 2007 and has declined since then. Their research showed that the average American sent or received 357 text messages a month and received only 204 phone calls.¹ The number of texts represents a 450 percent increase over the number of monthly messages sent and received during the same period in 2006.

Calls also are getting much shorter. In 2005 calls averaged three minutes in length and now, according to Nielsen, they are about half that in length. In a July 2010 article of *Wired Magazine*, Clive Thompson wrote, "We're moving, in other

words, toward a fascinating cultural transition: the death of the telephone call."² Another Nielsen study found that texting "has come at the expense of voice." Voice calls among teens have dropped 14 percent in the last year to about 646 minutes per month.³

This doesn't surprise you? You know that teens text; they don't call. You have a QWERTY keyboard and you too can text, so you are on board with the latest? No?

While voice calling is on the decline, data has hit a growth spurt, according to Nielsen. Ninety-four percent of teens in the texting study described themselves as "advanced data users."⁴ This means they use their phones for texting, Internet access, multimedia, and downloading apps. (Stick with it. This all makes more sense if you read on.) Teens monthly data consumption jumped from an average of 14 megabytes in 2009 to 62 megabytes in 2010. The number of teens who download apps jumped from 26 percent to 38 percent in 2010. This means in the future your kids aren't going to text you, they are going to message you using a Facebook app.

So what does all this mean to you, the hipster with the mad texting skills? Enter your cell phone's flashy and clever cousin – the smartphone.

¹http://blog.nielsen.com/nielsenwire/online_mobile/in-us-text-messaging-tops-mobile-phone-calling/ (September 2008)

²http://www.wired.com/magazine/2010/07/st_thompson_deadphone/ (July 2010)

³http://blog.nielsen.com/nielsenwire/online_mobile/u-s-teen-mobile-report-calling-yesterday-texting-today-using-apps-tomorrow/ (October 2010)

⁴Ibid.

Age Group	Average Number of Monthly Calls*	Average Number of Monthly Text Messages*
All Subscribers	204	357
Ages 12 & Under	137	428
Ages 13-17	231	1,742
Ages 18-24	265	790
Ages 25-34	239	331
Ages 35-44	223	236
Ages 45-54	193	128
Ages 55-64	145	38
Ages 65+	99	14

Source: The Nielsen Company (January 1, 2006 to June 30, 2008)

*Note: Data includes U.S. wireless subscribers only.

My Phone is Smarter Than Yours

Smartphones top telecomm talk in the mobile phone market. By the end of 2009, 21 percent of American wireless subscribers were using a smartphone, compared to 14 percent at the end of 2008.⁵ “This increase will be so rapid, that by the end of 2011, Nielsen expects more smartphones in the U.S. market than feature phones.” And in April 2011, for the first time, more smartphones were sold than any other type of mobile phone, according to a study by research firm NPD Group, a provider of consumer and retail market research information for a wide range of industries. Sales of smartphones rose 8 percent during the first three months of 2011 from the same period in 2010, and they accounted for 54 percent of all mobile phone sales for the period.⁶

And while Montana is often known for taking a tidbit of time to get on board with the latest trends, Montanans, by most accounts, are embracing smartphones.

“Verizon Wireless can’t speak to the overall percentage of smartphone usage in Montana, because an accurate percentage would have to take into consideration all carriers, but

we are confident that smartphone purchases and usage in the state are trending upward, as in the case of other states,” according to Verizon. “More people are using smartphones because customers like texting, emailing, and other data applications, including games, video, music, etc.”⁷

AT&T, which acquired Alltel in Montana, also sees a growing number of people using smartphones because of their functionality.

“AT&T has been building networks with the expectation that more and more people will be using mobile broadband, and to compete with rivals, our mobile broadband offering must be top-notch,” according to AT&T in Montana. “AT&T has experienced tremendous growth in wireless broadband. Over the last four years wireless data traffic on our network has increased 8,000 percent. With the continued growth and adoption of smartphones and tablets, we anticipate mobile data traffic on our network in 2015 will be eight to 10 times what it was in 2010.”⁸

Mike Kilgore, general manager of Nemont Communications in Scobey, agreed that the use of smartphones is on the rise.

⁵ <http://blog.nielsen.com/nielsenwire/consumer/smartphones-to-overtake-feature-phones-in-u-s-by-2011/> (March 2010)

⁶ *Los Angeles Times*, “Smartphones, led by iPhones, rise to top of mobile-phone sales, study says,” Nathan Olivares-Giles, April 29, 2011.

⁷ Information provided by Verizon Wireless, June 2011.

⁸ Information provided by AT&T, July 2011.

Montana-Specific Wireless Usage	
Subscribers	783,000
Population	994,416
Percentage of wireless consumers	79%
Wireless-only households	19.4%
Service providers	10 (urban areas)
Wireless employees	384
Average annual wireless payroll	\$15.2 million
Average annual wireless employee wage	\$39,336

Source: <http://mywireless.org/issues/montana>

However, there may be a bit of a rural divide when it comes to wireless in Montana. And that divide is all about the network. Kilgore points out that even today there isn't continuous wireless coverage on I-94 from Billings to Glendive. Smaller wireless providers are trying to cover these areas with fill-in licenses that are sought where larger, national providers choose not to build because of sparse populations. Federal reform of the universal service system, which allows smaller operators to fill-in some of the holes, also has providers concerned.

"Generally speaking, the adoption of cell phones in Montana follows national trends, but we do have challenges providing ubiquitous coverage over such a large area with only a few people to serve," Kilgore said.

Montana may lag behind national averages because of limited network capabilities in some areas.

"In Nemont's case we are just now in the middle of upgrading our network to third generation (3G) technology," Kilgore said. "This network will support higher data speeds which make the smartphone more useful."

Montana's rural providers also have to secure data roaming agreements with larger national carriers. Without a nationwide roaming agreement, it is impossible to provide the level of service customers' demand.

"It is difficult to sell an expensive smartphone that only works in Scobey," Kilgore said. "Data roaming is a big issue in the industry and one that continues to challenge Nemont."

As networks are upgraded, smartphones, however, will become even more prevalent.

"Many farmers want access to markets via the internet in real time (while sitting on their combines)," Kilgore said. "Our farmers, ranchers, and rural business men and women are very savvy and demand and need the same access to information as their urban counterparts. The key in all of this is the preservation and updating of the universal service system to ensure that rural wireless networks and services remain available and keep pace with the evolution of technology."

How Smart is Smart

While an industry-standard definition for a smartphone is tough to come by, it can generally be defined as a mobile phone that offers voice and text communication and also provides computing capability, for example, access to the Internet. According to PC Magazine, "the simplest way to tell a cell phone apart from a smartphone is to determine whether or not the device has a mobile operating system." There also are devices called "feature phones" that are a lot like a handheld computer. A smartphone, however, lets you multitask and run complete operating system software that is more complex and provides a platform for apps.

Clears Things Up, Right?

A mobile operating system is similar to the system that powers your personal computer, according to those in the telecommunications business. Smartphones are powered by things like iPhone OS and Google's Android. You typically pay for a data plan to take advantage of a smartphone's features.

Apparently smartphones have been around since 1993, when IBM introduced "The Simon". It included voice and data services and had a touchscreen. The original retail price was

\$899, and it was described as “brick-like”.⁹ A BlackBerry hit the smartphone market in 2002 by incorporating an internal keyboard and letting you check email and surf the Web. But 14 years after “The Simon” debuted, it was Apple’s iPhone and its touchscreen that changed the market.

In January 2007, Apple claimed to have “reinvented the telephone” by launching the iPhone “combining three products—a revolutionary mobile phone, a widescreen iPod with touch controls, and a breakthrough Internet communications device with desktop-class email, web browsing, searching and maps—into one small and lightweight handheld device.”¹⁰ Mobile phones that could access the Internet had been around for years, but the iPhone brought the concept to the masses, and inspired others to step it up.

Within a few months, the price of an iPhone dropped from \$600 to \$400. Within a couple years, the price was \$200. In addition to marketing, the competition came. In the fall of 2007 Google’s Android operating system hit the market. By the end of 2009, it was used on more than 7 percent of all smartphones in the U.S.—double its market share from the previous quarter.¹¹

Some would argue it wasn’t the technology, but rather the marketing, that totally tipped the wireless industry. Smartphones seduce customers with high resolution screens, tactile interfaces, and apps, like something called “ShopSavvy”.¹²

What’s an App

So now you know what a smartphone is, but what about all this “app” talk. The American Dialect Society in January 2011 named “app” the 2010 word of the year. “App has been around for ages, but with millions of dollars of marketing muscle behind the slogan ‘There’s an app for that,’ plus the arrival of “app stores” for a wide spectrum of operating systems for phones and computers, app really exploded in the last 12 months,” according to Ben Zimmer, chair of the New Words Committee of the American Dialect Society. “One of the most convincing arguments from the voting floor was from a woman who said that even her grandmother had heard of it.”¹³

The cleanest definition describes an “app” as a noun — short for application. An application, however, is actually more like a software program. A mobile app describes a software program used on a smartphone or mobile device like an iPhone. A person can buy an app, download it onto a smartphone and, depending on what that app is for, check the weather, decipher constellations, or find the cheapest pair of Adidas in Helena. There are thousands and thousands of apps. Just like you customize your computer at home, you can customize your smartphone with any number of apps.

You also may be wondering about all this 3G and 4G talk. “The 3G technologies are turning phones and other devices into multimedia players, making it possible to download music and video clips.”¹⁴ 3G is third generation mobile telecommunications, a term that encompasses a collection of technologies that make up the third generation of cellular phones. The standards allow cell phones to send and receive data at speeds comparable to DSL. It is a type of standards for mobile phones that meet International Mobile Telecommunications—2000 specifications that are established by the International Telecommunication Union. To meet these standards, a mobile operating system has to provide peak data rates at a certain speed (measured in kilobytes per second). All this talk about generations isn’t something new either. Back in 1981 there was something called 1G, and now 4G is here, well, not here in Montana, but here in the United States.¹⁵

Sayonara Cell Phone

Concern has been expressed that the days of “simple” cell phones are numbered. Your two-year contract will expire and your options will be a smartphone or a Jitterbug.¹⁶

“It’s all about consumer choice and what customers demand. As broadband speeds increase, we expect more demand for smartphones, and we are pleased to lead the nation in providing the first true 4G network,” according to Verizon Wireless. “Although we have not yet rolled out 4G in Montana, when it arrives, customers will experience speeds in the network that are 10 times faster than 3G, which is already pretty fast. Faster broadband speeds mean even greater data applications, downloading movies in minutes for example.”

⁹ PCWorld, “A Brief History of Smartphones,” Brad Reed, June 18, 2010.

¹⁰ <http://www.apple.com/pr/library/2007/01/09iphone.html>

¹¹ PCWorld, “A Brief History of Smartphones,” Brad Reed, June 18, 2010.

¹² ShopSavvy is an application for an Android-powered smartphone. It uses the camera on a phone to scan the bar code from items. It comparison shops for the lowest local and online price for an item and shows customer reviews of the item. It also sends you to the website where the item is sold, provides driving directions, or lets you call the merchant.

¹³ http://www.americandialect.org/index.php/ameridial/app_voted_2010_word_of_the_year_by_the_american_dialect_society/

¹⁴ <http://edition.cnn.com/2001/TECH/industry/10/22/3g.defined.idg/index.html>

¹⁵ <http://www.clear.com/coverage>

¹⁶ “The original easy to use cell phone, custom-designed by Samsung.” It has bigger buttons, a powerful speakerphone, and the only options are “yes” or “no”.

Verizon goes on to say they support a flexible line-up of handset options that recognize that individual customers have varying needs.

“However, we can’t guarantee in perpetuity what will be offered in the marketplace for handsets since we don’t manufacture the phones. We can’t guarantee that ‘standard wireless phones’ will always be in the marketplace any more than television manufacturers could have guaranteed that black and white TVs would always be on the market decades ago,” according to Verizon. “We know that consumer demand is what drives handset availability and applications, so that will likely be the main factor in what is sold in the marketplace. We expect though that customers in Montana will continue to have lots of choice.”

Kilgore, with Nemont Communications, also sees smartphones dominating.

“I believe at some point in the next 2 to 3 years that the smartphone will be the predominant phone in the Nemont area,” he said. “While I believe there will always be a place for the traditional basic feature phone, I don’t know that there are any assurances that the manufacturers will continue make these phones. The larger national carriers have a tendency to drive the evolution of devices such as the smartphone. Due to rapid technology advancement and the handset/device exclusivity arrangements the large national carriers have with the handset manufacturers, it is quite possible that the feature phone as we know it, could go away at some point in time.”

Becoming a Smarty Pants

When smartphones do take over, the industry is also ready to help the technologically-challenged masses.

Some mobile phone providers are providing free, customer workshops to help smartphone users use the basic features of these increasingly popular computers. For example, every other Wednesday Verizon offers a class in Helena. Attendees are divided into groups based on the type of mobile device they own. At a recent class, 10 smartphone owners circled up while Verizon employees answered questions for two hours. By the end of the workshop, attendees had learned the basic features on a smartphone, like how to send an email, browse the Internet, shoot video, and even, gasp, how to place and receive phone calls.

It turns out smartphone users are also pretty happy with all this technology. Market information company J.D. Power recently released a new customer satisfaction survey that shows that satisfaction is increasing for users of smartphones, while

users of traditional mobile phones are becoming less satisfied. J.D. Power ran three customer satisfaction surveys: one for consumer smartphone users, one for business smartphone users, and one for traditional mobile phone users.

Over the past six months, satisfaction among consumer smartphone owners increased by 14 index points (on a 1,000-point scale), whereas among traditional mobile phone owners overall satisfaction declined by six index points, most likely as a result of “heightened awareness among traditional mobile phone owners of advanced features available on smartphones,” according to the J.D. Power study.¹⁷

Verizon Wireless disagrees with the declining satisfaction in traditional phones, noting its more about the network than the phone. But the company does see the smartphone trend as hitting the mark.

“On the J.D. Power study, we believe it’s true and fair to say that Verizon Wireless smartphone users are experiencing increased satisfaction, and frankly the more that customers discover new capabilities with the phones, the more they appreciate them and the ‘wow factor,’” according to Verizon.

So prepare yourself. You can quietly suffer smartphone envy or you can step up, take technology by the horns, pay your new data charges, and, perhaps, be a cool cat after all.¹⁸

¹⁷ <http://businesscenter.jdpower.com/news/pressrelease.aspx?ID=2010039>

¹⁸ This may not apply if you carry your smartphone in a hip holster.

Calendar of Legislative Events

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

August						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22 Select Committee on Efficiency in Government, Flathead Community College, Kalispell	23 Select Committee on Efficiency in Government, Flathead Community College, Kalispell Economic Affairs, Rm 137, 9 a.m.	24 Economic Affairs, Rm 137, 8:30 a.m.	25	26	27
28	29	30	31			

September						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
				1	2	3
4	5 Labor Day	6	7	8	9 Law & Justice Committee	10
11	12	13 Water Policy Committee	14 Environment Quality Council	15 Environment Quality Council Education & Local Government Committee Legislative Council	16 Education & Local Government Committee Legislative Council Energy & Telecommunications Committee	17
18	19 Children & Families Committee	20	21	22	23	24
25	26 Revenue & Transportation Committee	27 Revenue & Transportation Committee	28	29 Legislative Finance Committee	30 Legislative Finance Committee	

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