



## Newsletter

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### Committee to Start Prescription Drug Study

The Children, Families, Health, and Human Services Interim Committee will hear a first round of informational presentations for its study of prescription drug abuse when it meets in November.

Three panels are scheduled for the Nov. 15 meeting. Medical providers and law enforcement officers will offer their perspectives on the use of prescription pain medications and the problems with abuse and diversion of those drugs. In addition, the committee will hear about the development and use of the Montana Prescription Drug Registry, which was authorized by the 2011 Legislature.

The prescription drug abuse study stems from Senate Joint Resolution 20, which calls for the committee to study strategies for reducing prescription drug abuse, particularly the use of opioid pain relievers for the treatment of pain caused by conditions other than cancer or the treatment of cancer.

### HJR 16 Work Continues

The committee also will continue work on the House Joint Resolution 16 study of state-operated institutions that serve individuals who have a mental illness, intellectual disability, or chemical dependency. In September, the committee visited four of the facilities to learn more about their operations and the people they serve.

In November, members will follow up on items related to their visits to the Montana State Hospital, Montana Developmental Center, Montana Chemical Dependency Center, and Montana State Prison. In addition, state agency representatives and providers of community services will discuss the continuum of care, particularly for the mental health system. Speakers will discuss their views of how the state-run facilities fit into that continuum and the resources that may be needed to allow for discharge of people from the state facilities into community services.

Members of the public also will have an opportunity to provide the committee with suggestions for alternative ways that services could be provided or for ways in which services at the facilities could be revamped to provide more effective treatment or provide services in a more cost-effective way.



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

## Medicaid Provider Comment

Also in November, the committee will hear the first in a planned series of presentations by providers who participate in the state Medicaid program. Representatives of mental health programs will discuss the services they provide, the general challenges they face, and how their work is affected by the decisions that the Legislature makes.

The sessions are designed to create a forum for Medicaid providers to raise matters that may need to be considered during the next legislative session.

## Next Meeting

The committee meets next at 8 a.m. on Nov. 15 in Room 137 of the Capitol in Helena. For more information about the committee's activities and upcoming meeting, visit the committee's website or contact Sue O'Connell, committee staff.

Committee Website: [www.leg.mt.gov/cfhhs](http://www.leg.mt.gov/cfhhs)

Committee Staff: [soconnell@mt.gov](mailto:soconnell@mt.gov) or 406-444-3597

## Economic Affairs Committee Eyes Montana State Fund Restructuring

The Economic Affairs Interim Committee in October asked for a work group to explore restructuring of Montana State Fund after hearing presentations about Montana State Fund's finances, current Old Fund liability, and potential areas of mutually acceptable regulatory changes among workers' compensation stakeholders.

The decision points to be discussed by the work group are expected to include whether Montana State Fund should begin paying premium taxes and, if so, whether part of the premium taxes could be used to pay Old Fund liabilities. The work group also will discuss whether Montana State Fund should be regulated by the State Auditor's Office in many of the ways other workers' compensation insurers are regulated.

The work group, which is to report back at the committee's Jan. 21-22 meeting, will include Rep. Tom Berry and Sen. Tom Facey. It will meet the week of Dec. 16 at a time and place to be announced.

## State Fund Review

The committee heard several presentations at its Oct. 22 meeting for the House Joint Resolution 25 study of topics related to workers' compensation. As a result of the presentations, the committee decided to further coordinate legislative involvement with restructuring talks already begun with Montana State Fund, the State Auditor's Office, and others.

The presentations included:

- overviews of the actuarial estimates regarding financial soundness of Montana State Fund's New Fund and the projected remaining liabilities of the Old Fund, which consist of continuing claims for injuries to State Fund-covered workers who filed before July 1, 1990;
- an explanation of how Montana State Fund's \$817.6 million in reserves are buttressed by equity (for unexpected increases in medical costs, court rulings, or other changes) of approximately \$318 million, which reinsurance expert Bruce Hockman of Towers Watson said was an appropriate backstop and not an overfunding to meet Montana State Fund obligations, as was debated during the 2013 legislative session;
- information from Montana State Fund Chief Executive Officer and President Laurence Hubbard regarding discussions with stakeholders about the need for Montana State Fund to remain a guaranteed market while possibly making changes that would result in Montana State Fund being regulated more like other workers' compensation insurers;
- comments from representatives of private insurers, including self-insured companies and groups, regarding what they would like to see if Montana State Fund were to operate more like a regular workers' compensation insurance company; and
- options for handling the unfunded liability of the Old Fund, estimated at \$51 million in today's dollars. Six catastrophic claims out of the remaining 782 claims account for 47 percent of the Old Fund's costs.

## Other Committee Activity

During other business, the committee:

- voted to remove its objection to a proposed Department of Agriculture rule increasing weed seed free forage fees. The committee objected to the rule in August in part because the fee increases were not commensurate with costs. Agriculture Director Ron de Yong told the committee in October that the fees were intended to make the program self-sufficient. The removal of the committee's objection allows the department to adopt the rule.
- voted, after receiving much public comment, to recommend retaining three professional and occupation licensing boards: the Board of Clinical Laboratory Science Practitioners, the Board of Radiologic Technologists, and the Board of Respiratory Therapy Practitioners;
- heard from Commissioner of Securities and Insurance Monica Lindeen about operations of the State Auditor's Office and, in particular, what her office has been doing

to let people know about the federally facilitated health insurance exchange, or “marketplace,” created under the federal Affordable Care Act; and

- heard from individuals who are involved in helping Montanans learn about their health insurance options or sign up for insurance through the online marketplace. An insurance agent, a Montana Hospital Association representative, and individuals working for organizations that received grants to help Montanans “navigate” the marketplace talked about their roles and said their tasks at the time were mostly informational because the online marketplace was functioning so poorly in its early weeks of operation. Some noted they are helping people sign up for insurance by using paper applications or directing them to a call center, rather than using the federal government’s website. In response to a question about whether someone signing up for a marketplace account has given the government permission to access the applicant’s credit report, insurance agent Kathy Burton said the credit check was allowed if an applicant checked “I accept” to proceed to create an account. She said the credit check was intended to keep people from representing themselves as someone else.

### Next Meeting

The full committee meets next on Jan. 21-22 in Room 137 of the Capitol in Helena. For more information on the committee’s activities or upcoming meetings, visit the committee website or contact Pat Murdo, committee staff.

Committee Website: [www.leg.mt.gov/eaic](http://www.leg.mt.gov/eaic)  
Committee Staff: [pmurdo@mt.gov](mailto:pmurdo@mt.gov) or 406-444-3594

### ELG to Hear HJR 2 Update in December

The Education and Local Government Interim Committee will hear a progress report in December from a work group looking at the management of electronic records.

Other agenda items on Dec. 2 will include:

- an update on the Montana Indian Language Preservation Pilot Program;
- a review of 2013 charter school bills;
- a report on the School Transportation Funding and Safety Audit;
- an update from and dialogue with the Board of Public Education; and
- a discussion of how to approach the review of the Shared Policy Goals for Montana’s systems of education.

At its September meeting, the committee asked staff to coordinate a work group to look into topics raised by the House Joint Resolution 2 study of electronic records management. The work group met for the first time on Oct. 23.

The interested parties in attendance represented state agencies, divisions of local government, and the public. Participants shared the biggest issue or top priority for their organization related to electronic records management and provided input on a survey to be distributed to state and local governments to gather information about the current status and needs related to management of the records.

The committee will receive a report on the survey at its December meeting.

### Next Meeting

The committee meets next on Dec. 2 in Room 137 of the Capitol in Helena. For more information on the committee’s activities and upcoming meeting, visit the committee’s website or contact Pad McCracken, committee staff.

Committee Website: [www.leg.mt.gov/elgic](http://www.leg.mt.gov/elgic)  
Committee Staff: [padmccracken@mt.gov](mailto:padmccracken@mt.gov) or 406-444-3595

### Energy Committee to Hear About Planned Sale of PPL Dams

At its Nov. 8 meeting, the Energy and Telecommunications Interim Committee will learn more about NorthWestern Energy’s recent announcement that the utility plans to purchase 11 hydroelectric facilities from PPL Montana for \$900 million.

The committee will hear from representatives of NorthWestern Energy and learn more about the role of the Montana Public Service Commission in overseeing the proposed purchase. The sale requires the approval of both the PSC and the Federal Energy Regulatory Commission.

ETIC members also met via conference call in late October to withdraw their objection to a proposed PSC rule that would have reduced standard rate or automatic contracts from a public utility to small power production facilities. Under the current rules, if a qualifying facility generates 10 megawatts or less and meets cost standards set by the PSC and negotiated with the public utility, then the utility must buy the power from the facility. The PSC proposed a rule requiring facilities generating more than 100 kilowatts to participate in a competitive solicitation process rather than receiving the standard contract. In September, the committee asked the PSC to revisit the rule and consider a 3-megawatt cap, as opposed to 100 kilowatts, for standard offer contracts.

The PSC responded to the objection and revised the proposed rule to reflect the 3-megawatt limit. The committee then voted 6-2 via conference call to withdraw its objection.

At the November meeting, the committee will revisit the qualifying facility issue. The committee is hosting a forum to discuss the process followed by NorthWestern Energy in planning and procuring electricity supply to meet customer needs. The discussion will focus on the competitive solicitation process used by NorthWestern Energy to procure energy resources.

### RPS Study

The committee also will continue its work on the Senate Joint Resolution 6 study of the Montana renewable portfolio requirements. For the upcoming meeting, the committee is focusing on the environmental impacts of the standard. The committee will look at the standard's contribution to:

- diversified generation in Montana and to reduced dependence on fossil fuels;
- the types of renewable energy generation used in meeting the standard; and
- air quality improvements.

The Department of Environmental Quality will lead the panel discussion. A representative of the federal Department of Energy's National Renewable Energy Laboratory in Colorado also has been invited to share national research on how to account for the carbon benefits of renewable energy.

The SJR 6 study is focused on the economic impacts of renewable energy requirements, the environmental impacts of Montana's requirements, and the impacts the requirement has had on Montana utility customers.

### Next Meeting

The committee meets next at 8:30 a.m. on Nov. 8 in Room 172 of the Capitol in Helena. For more information on the committee's activities and upcoming meeting, visit the committee's website or contact Sonja Nowakowski, committee staff.

Committee Website: [www.leg.mt.gov/etic](http://www.leg.mt.gov/etic)

Committee Staff: [snowakowski@mt.gov](mailto:snowakowski@mt.gov) or 406-444-3078

## Two EQC Work Groups Begin Efforts

A work group of the Environmental Quality Council met twice in October to identify risks and concerns associated with federal land management in Montana. A second work group examining certain state-owned historic properties will start work in November.

The work groups were appointed by EQC Presiding Officer John Brenden in September, to help the council with two studies it will carry out this interim.

### SJR 15 Work Group

Senate Joint Resolution 15, sponsored by Sen. Jennifer Fielder, requested the study of federal land management. The SJR 15 Work Group met twice by teleconference in October and plans to continue reviewing risks and concerns. Sen. Fielder chairs the work group. Other members are Sen. Bradley Hamlett and Reps. Ed Lieser and Kerry White.

Information about the study and the work group is available on the EQC website, [www.leg.mt.gov/eqc](http://www.leg.mt.gov/eqc). For more information or to submit comment, contact Joe Kolman, committee staff, at 406-444-3747 or [jkolman@mt.gov](mailto:jkolman@mt.gov).

### SJR 4 Work Group

A work group established for the council's SJR 4 study of state-owned properties will meet Nov. 12 at 10 a.m. in Room 102 of the Capitol. SJR 4 specifically directed the council to study the management and operation of Virginia City, Nevada City, and Reeder's Alley in Helena. Sen. Jim Keane chairs the work group, which also includes Sen. Rick Ripley and Reps. Virginia Court and Jeff Welborn.

Agenda items will include examination of the Montana Heritage Commission's various funding sources, the MHC's governing statutes, and review of the state's acquisition of Reeder's Alley.

Information about SJR 4 is available on the EQC website. For more information about this study, contact Leanne Kurtz, staff assigned to the study, at 406-444-3593 or [lekurtz@mt.gov](mailto:lekurtz@mt.gov).

## Audit Committee to Meet Nov. 19

The Legislative Audit Committee will meet Nov. 19 to review recent audits of state programs and services. The Legislative Audit Division anticipates reporting on the following financial-compliance audits:

- Board of Housing;
- Dawson Community College;
- Department of Labor;
- Department of Public Health and Human Services;
- Department of Transportation;
- Medical Legal Panel; and
- Montana State Fund.

The division also will present financial-related audits of Montana State University and the University of Montana. A financial-related audit determines compliance with regulations related to contract and grant expenditures and other governmental financial assistance and tests compliance with requirements of selected state laws, regulations, and rules.

The division also will report on performance audits of:

- the Block Management Program operated by the Department of Fish, Wildlife, and Parks; and
- management of oil and gas and commercial leasing on state trust lands under the Department of Natural Resources and Conservation.

The Legislative Audit Division provides independent and objective evaluations of the stewardship, performance, and cost of government policies, programs, and operations. The division is responsible for conducting financial, performance, and information system audits of state agencies or their programs, including the Montana University System. For more information, call the division at 406-444-3122.

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

### Next Meeting

The committee meets next on Nov. 19 in Room 172 of the Capitol in Helena. For more information about the committee's activities and upcoming meeting, visit the Legislative Audit Division website or contact Legislative Auditor Tori Hunthausen.

Division Website: [www.leg.mt.gov/audit](http://www.leg.mt.gov/audit)

Division Contact: 406-444-3122

## Council Begins Review of Legislative Practices in Other States

The Legislative Council began work in October on initiatives identified during a strategic planning session in August. The council has decided to focus on legislative improvement during this interim.

At its Oct. 23 meeting, the council received the first installment of information on what other legislatures do. Members reviewed other legislatures that meet once every two years, as the Montana Legislature does, and also looked at information on bills and bill processing in various states.

The council will continue its work on legislative improvement by receiving information at each of its meetings on legislative practices in other states. The council is interested in legislators and all stakeholders participating in future meetings and

will be encouraging anyone who has been involved in the process to share their experience and advice and for the public to share its concerns and ideas.

Also in October, the Communications Office provided the council with a presentation on potential changes to the e-mail and phone messaging systems and on opportunities to use video production and TVMT to provide more outreach to the public and an opportunity to enhance the interaction of the Legislature and the public. Staff will be following up with additional information regarding a standard e-mail for legislators and the legal obligations regarding public records.

The council also created a Rules Subcommittee. Members are Sens. Jeff Essmann, R-Billings, and Cliff Larsen, D-Missoula, and Reps. Mark Blasdel, R-Somers, and Chuck Hunter, D-Helena.

On Oct. 25, the council held a conference call to consider a request to the Public Employees' Retirement Board to preserve all records pertaining to the board's Sept. 12 meeting. After some discussion, the motion, made by Sen. Debby Barrett, failed on a 5-6 vote.

### Next Meeting

The council meets next on Jan. 8 in Helena. For more information on the committee's activities and upcoming meeting, visit the committee's website or contact Susan Byorth Fox, committee staff.

Committee Website: [www.leg.mt.gov/legcouncil](http://www.leg.mt.gov/legcouncil)

Committee Staff: [sfox@mt.gov](mailto:sfox@mt.gov) or 406-444-3066

## Finance Committee Hears Pay Plan, IT Reports

The Legislative Finance Committee covered topics ranging from the status of the general fund to state employee pay and developments in state technology systems when it met in September.

The Legislative Fiscal Division staff presented the [FY 2013 Fiscal Year End and 2015 Biennium Update Report](#) to the committee. Legislative Fiscal Analyst Amy Carlson explained the details of the preliminary general fund account unassigned balance for Fiscal Year 2013. She said the balance was \$537.3 million, or \$102.4 million above the level anticipated by the 2013 Legislature.

Carlson said the additional \$102.4 million came from a combination of higher-than-expected revenue of \$82.4 million, a reduction in spending of \$14.9 million, and \$5.2 million in prior-year adjustments. The revenue staff provided additional details explaining the \$82.4 million in unanticipated revenues. Comparison of appropriations and actual expenditures was

discussed by the expenditure staff with particular focus on reversions of money that was appropriated but not spent and on transfers of money within agencies or between agencies.

Carlson said the staff will provide the committee with updated revenue trends at the December meeting. She also said that while the Legislative Fiscal Division normally assists the Revenue and Transportation Interim Committee with the development of revenue estimates in the fall of even-numbered years, she wanted new revenue staff to learn the tool and provide a general fund status report with updated revenue trends for both the Finance Committee and RTIC meetings in December.

### Pay Plan Study

House Joint Resolution 17 directed the Legislative Finance Committee to examine state pay plans, including the data used to develop pay plans and how that data is generated. Kris Wilkinson, LFD senior fiscal analyst, provided two study-related reports to the committee. The first, “[What Pay Plans Are and How They Were Established](#),” provided detail on the types of pay plans. The second, “[Data Related to Pay Plans](#),” explained the statutory requirements of pay plan data, best practices recommended for salary surveys, salary survey data development, and how the data is used in development of the budget.

Committee members agreed to ask the Legislative Audit Committee to undertake a performance audit reviewing the classification of occupations and the placement of occupations onto the pay bands.

### Public Defender Motions

The committee also received more information from Chief Public Defender William Hooks on motions the Office of Public Defender filed in justice and municipal courts in Lewis and Clark, Jefferson, and Broadwater counties to revoke or rescind court orders or notices appointing the office to represent defendants in new and additional cases. The committee reviewed that action and asked Hooks about his decision to file the motions. Hooks explained that the motions asked lower courts not to assign more cases to the office for an unspecified period of time because of the large caseloads the office’s attorneys are currently carrying.

### IBARS Update

Barbara Smith, LFD operations manager, updated the committee on the progress of developing the new statewide budgeting system. She presented a report entitled “[Budgeting Options for the 2015 Session](#),” which described various options and the impacts those options would have on the development of the new Internet Budget and Reporting System (IBARS). Smith said that IBARS is in the early development phase, but that the product testing phase should begin

by June 2014. Brent Levinson with Affinity Global Solutions, the contractor hired by the state to develop IBARS, said he remains optimistic about completing IBARS on time, but the loss of key executive staff working on the system could affect the timeline.

### Local Government Infrastructure

The Legislative Finance Committee included a local government infrastructure project in the FY 2013-FY 2014 work plan for the Legislative Fiscal Division. Cathy Duncan, LFD senior fiscal analyst, provided the committee with a report entitled “[Local Government Infrastructure Project](#)” to explain basic infrastructure funding at the local government level. The committee also heard from three local government representatives who discussed the financial options that local governments use to provide for infrastructure needs. They explained that while state programs such as the Treasure State Endowment Program provide important funding for local government infrastructure, some challenges remain, particularly in funding infrastructure projects to ensure compliance with state regulations.

The committee asked that follow up on this project continue at the December meeting.

### Other Topics

Also at its September meeting, the committee heard reports from:

- the State Information Technology Services Division on policy changes for computer information systems and on the progress of various state information technology projects;
- David Senn, director of the Teachers’ Retirement System, who provided an actuarial update on the impact of the passage of House Bill 377 in 2013 and reported that the Teachers’ Retirement System fund is actuarially sound; and
- Roger Lloyd, LFD senior fiscal analyst, who reported on the [2013 wildfire suppression costs](#), which totaled \$57.5 million for the state. Funding available through the wildfire project suppression account, the governor’s general fund emergency account, and HB 3 provided for the state’s obligation.

The committee also adopted the Legislative Fiscal Division [work plan](#). The work plan and other reports presented at the meeting are available on the [Publications](#) page of the committee’s website.

### December Outlook

The committee will meet in December and is expected to continue its work on the HJR 17 study and the local govern-

ment infrastructure project. In addition, the committee will likely follow developments with creation of the new Medicaid Management Information System (MMIS) and receive updates on a number of other topics, including:

- the 2015 biennium budget;
- IBARS;
- implementation of HB 2 language and transfers authorized in Senate Bill 410;
- the Montana State Fund budget; and
- the state Medicaid budget.

### Next Meeting

The committee meets next on Dec. 9-10 in Room 102 of the Capitol in Helena. For more information on the committee's activities and upcoming meetings, visit the committee website or contact Legislative Fiscal Analyst Amy Carlson.

Committee Website: [www.leg.mt.gov/lfc](http://www.leg.mt.gov/lfc)

Committee Staff: [acarlson@mt.gov](mailto:acarlson@mt.gov) or 406-444-2986

## RTIC Reviews Tax Appeals, Oversized Loads

The Revenue and Transportation Interim Committee met Oct. 1 in Helena and received agency reports, began work on its two assigned studies, and heard a general fund update.

Department of Revenue Director Mike Kadas and DOR staff updated the committee on a number of developing issues. In *Covenant Investments, Inc. v. State of the Montana*, the Montana Supreme Court reversed a District Court decision declaring the six-year property reappraisal cycle unconstitutional. Kadas also addressed a recent Internal Revenue Service ruling that legally married same-sex couples may file a joint federal income tax return regardless of whether their state of residence recognizes the marriage. Kadas stated that same-sex married couples who are Montana residents must still file separate state income tax returns because of state constitutional provisions. The department also gave a computer demonstration of the new unclaimed property website, which allows users to search for unclaimed property and to claim it by submitting an online claim.

The committee also received an agency update from Department of Transportation Director Mike Tooley, who discussed the expected gap between revenues and expenditures in the federal highway trust fund without congressional action to bridge the gap. Tooley also notified the committee that the agency is moving forward with a training program to arm motor carrier services agents. The initial funding for training will come from a federal grant to prevent fuel evasion.

## Assigned Studies

Department of Revenue staff, committee staff, and the presiding officer of the State Tax Appeal Board presented background information to the committee for the Senate Joint Resolution 23 study of the taxpayer appeal process. DOR discussed informal taxpayer appeal processes within the agency. Committee staff gave an overview of the state and county tax appeal boards, the types of cases heard by the two types of boards, appeal time frames, and appeal procedures. Karen Powell, chairwoman of the State Tax Appeal Board, discussed how the appeal process works and raised some procedural issues of concern that the committee may wish to explore. In addition to the background material, Powell also presented a state-by-state summary of how other states structure the taxpayer appeal process. At the committee's request, committee staff will review the information and provide a summary of state trends in appeal procedures.

The committee also began its SJR 26 study of the movement of oversized loads through Montana. Committee staff presented information on size, weight, and load limits and the special permit requirements for oversized loads. Duane Williams, administrator of the Motor Carrier Services Division of the Department of Transportation, walked the committee through the application procedures for oversized loads, showed photographs of oversized loads that moved through the state in recent years, identified common routes for oversized loads, and discussed physical impediments to moving oversized loads such as power lines and bridges. Barry "Spook" Stang, executive vice president of the Motor Carriers of Montana, also discussed the application process from the applicant's perspective.

## Revenue Estimating and Monitoring

The Legislative Fiscal Division presented a general fund update and a summary of the top seven revenue sources for the general fund. In addition, Legislative Fiscal Analyst Amy Carlson presented a sample budget status report that could be used during the next legislative session to highlight one-time-only revenue and spending.

In December, the fiscal division will provide the committee with a trial-run revenue estimate.

## Also on Tap in December

Also in December, the committee will continue work on its two studies. For the SJR 23 study, the committee will begin identifying issues with the taxpayer appeal process, likely utilizing panel discussions. Those interested in participating in a panel should contact committee staff. Others who are interested in providing input but do not wish to appear on a panel may provide public comment at the meeting or written comments to staff in advance of the meeting.

The focus of the SJR 26 study at the December meeting will be an overview of policies in other states and the Canadian provinces on the movement of oversized loads with specific attention given to commerce corridors.

The committee also will receive agency updates, including some required reports from DOR and MDT.

### Next Meeting

The committee meets next on Dec. 4-5 in Room 137 of the Capitol in Helena. For more information on the committee's activities and upcoming meeting, visit the committee's website or contact Megan Moore, committee staff.

Committee Website: [www.leg.mt.gov/rtic](http://www.leg.mt.gov/rtic)

Committee Staff: [memoore@mt.gov](mailto:memoore@mt.gov) or 406-444-4496

## SAVA Examines Political Practices, Pensions, Election Deadlines

The Office of the Commissioner of Political Practices (COPP), the actuarial valuations of the public employee retirement systems, and election dates and deadlines were under the microscope of the State Administration and Veterans' Affairs Interim Committee during its October meeting.

The committee is studying each of these topics during the interim.

### Political Practices

The committee was tasked to take an in-depth look at COPP under House Joint Resolution 1, which calls for the committee to study the structure, composition, and duties of the office and its enforcement authority.

Commissioner of Political Practices Jonathan Motl introduced each of the office's five other full-time staff members and provided the committee with job descriptions for each position, including his own. He also provided detailed information about the number and types of cases his office handles with respect to campaign finance, ethics, and lobbying complaints. The caseload information provided is summarized in the table below.

Motl also provided information about seven existing contracts for outside consultant services related to information technology, database management, and legal services. The office's budget of \$562,000 a year includes \$337,000 for staff salaries and benefits and about \$150,000 a year for contract services. The commissioner's salary is \$64,375, not including benefits.

Motl told the committee that under current law, the procedures for handling complaints involve both mandatory and discretionary actions. The commissioner may accept or dismiss a complaint. If a complaint is accepted as sufficient, then the commissioner's office must investigate and issue a decision. If the office determines that a violation has occurred, it must forward the case to the county attorney. If the county attorney chooses not to prosecute, the commissioner may choose to enforce or not enforce the decision, may reach an administrative settlement with the party found to have violated the law, or may initiate a court action against the party. Motl explained that complaints are usually dismissed because they are found to be outside the commissioner's jurisdiction. He also said the office would prefer to settle a case rather than to initiate litigation.

Motl said that because he is an attorney experienced in campaign finance law, he has been able to write decisions himself and catch up on the considerable backlog of cases he inherited. He also said he has instituted a thorough review process, including a review by an attorney in the Attorney General's office. Motl said he believes the state's laws have teeth with respect to enforcement but that problems have occurred with enforcement because of a lack of timeliness in issuing decisions.

Committee member asked Motl about the hiring process for the new attorney position within the office, how "fair market value" is determined when the COPP is deciding the value of various campaign services, and what recourse a person has if a complaint is not accepted by the office. They also asked him for suggestions for legislation that would help the office make its processes easier or more streamlined.

**Office of Commissioner of Political Practices Caseload**

Case Type	2010	2011	2012	2013	Total	Still Open
Campaign Finance	18	32	55	24	129	33
Ethics	3	4	6	2	15	2
Lobbying	0	1	1	0	2	1
<b>TOTAL</b>	<b>21</b>	<b>37</b>	<b>62</b>	<b>26</b>	<b>146</b>	<b>36</b>

## Public Pensions

The committee is charged by law with monitoring the state's public employee retirement systems, and in October, members reviewed actuarial valuation results. The Back Page article on P. 10 summarizes the basic actuarial valuation results concerning how well the retirement plans are funded and how long it will take to pay off each system's unfunded liabilities (known as the amortization period) given expected contributions and actuarial assumptions about future plan experience, such as the expected rate of return on investments.

After the committee received public comment in the form of a letter from Board of Investments member Gary Buchanan, Sen. Dave Lewis said the Board of Investments, not the retirement boards, should be responsible for setting the investment rates of return assumption used in the annual actuarial valuations. He also said he had asked legislative staff to research the history in Montana of who was responsible for the investment rate of return assumption and to look at practices in other states. Sen. Dee Brown requested that PERB provide copies of any correspondence, including e-mails or text messages, that PERB members received concerning the PERB's Sept. 12 meeting. At that meeting, the board voted to continue to use the current 7.75 percent investment rate of return assumption rather than the lower 7.5 percent rate of return assumption offered as an option by the PERB actuary, based on a special economic experience study.

## Election Deadlines

SAVA members also received a report from a subcommittee working on the Senate Joint Resolution 14 study of combining school and primary elections. Subcommittee Chairman Bryce Bennett explained that the subcommittee voted 2-1 to recommend that the election laws be examined and legislation developed to make deadlines for the various types of elections more consistent. The committee voted 7-1 to have the subcommittee continue working on the topic, with Rep. Kathy Swanson voting no by proxy.

## Next Meeting

The committee meets next on Dec. 10 in Room 152 of the Capitol in Helena. A date has not yet been set for the next meeting of the SJR 14 Subcommittee on Combining Elections. For more information on the committee's activities and upcoming meeting, visit the committee's website or contact Sheri Scurr, committee staff.

Committee Website: [www.leg.mt.gov/sava](http://www.leg.mt.gov/sava)

Committee Staff: [sscurr@mt.gov](mailto:sscurr@mt.gov) or 444-3596

## State-Tribal Committee Hears Fort Belknap Concerns

The State-Tribal Relations Interim Committee held a joint meeting in October with the Fort Belknap Indian Community Council and with Aaniiih Nakoda College (Fort Belknap College) officials.

During the Oct. 3 meeting with the council, legislative staff provided updates on the proposed water compact with the Confederated Salish and Kootenai Tribes and on the Montana Indian Language Preservation Pilot Program, which was created by passage of Senate Bill 342 earlier this year. Staff reported that the state's reservations and the Little Shell Chippewa Tribe have initiated pilot projects that are all currently meeting the program's milestones.

Members of the committee and the council then took up the question of bison management. Committee staff provided a brief update on the Environmental Quality Council's recent discussion of bison. In addition, the members heard presentations from state and tribal officials, as well as representatives of groups interested in the topic.

## Fort Belknap Concerns

During the Fort Belknap Indian Community Council portion of the agenda, the council raised a longstanding concern about funding earmarked for maintenance of roads by Blaine County. The council contends the county has received the funds without doing the required maintenance of roads within the reservation. The committee asked its staff attorney to look into the subject to determine if there is any remedy that the committee can suggest.

The director of the Fort Belknap Department of Water Resources also provided an update on the tribe's water compact, which is now pending in Congress, while the director of the Temporary Assistance for Needy Families (TANF) program reported concerns about accessing a Department of Public Health and Human Services eligibility system known as "CHIMES." The committee's staff will provide the director with recent evaluations of the system.

Staff also will look into concerns raised by the community council about right-of-way access to its new bison holding area. The council believes that the Department of Transportation has documentation pertaining to the strips of land in question and feels that documentation will help in its discussions with property owners in the affected area.

## Discussion of Academic Issues

On Oct. 4, legislators met with Aaniiih Nakoda College officials and heard presentations on:

- the White Clay Language Immersion Program;

- the transferability of academic credits between tribal colleges and the Montana University System; and
- a lack of funding for Adult Basic and Literacy Education that an academic dean attributed to a funding formula that fails to identify where need for such funding is the greatest.

The committee agreed to continue reviewing the transfer of academic credits after hearing that long-term frustration with the process has led to apathy and a disincentive to even try transferring credit.

### Next Meeting

The committee meets next on Jan. 13-14 and plans to travel to Crow Agency. For more information about the committee's activities and upcoming meeting, visit the committee's website or contact Casey Barrs, committee staff.

Committee Website: [www.leg.mt.gov/tribal](http://www.leg.mt.gov/tribal)

Committee Staff: [cbarrs@mt.gov](mailto:cbarrs@mt.gov) or 406-444-3957

## The Back Page

### Navigating Public Employee Pension Systems Through an Actuarial Ocean

by Sheri Scurr, Legislative Research Analyst

One of the hot topics of the 2013 legislative session was the funding status of the public employee pension plans. The investments for these plans took a big hit during the Great Recession that began in December 2007 and lasted through mid-2009. Five of the eight public employee defined benefit pension plans became actuarially unsound, including the state's two largest pension plans. The Legislature then had to decide whether and how to return these plans to soundness. To do this, the Legislature had to navigate the waters of actuarial determinations and learn about how actuarial soundness is defined and what it would cost to get there.

So, what is actuarial soundness? Who conducts actuarial valuations? And who is responsible for setting the assumptions that actuaries use when conducting the actuarial valuations? These are difficult waters to navigate, and the public employee pension plans are not small ships.

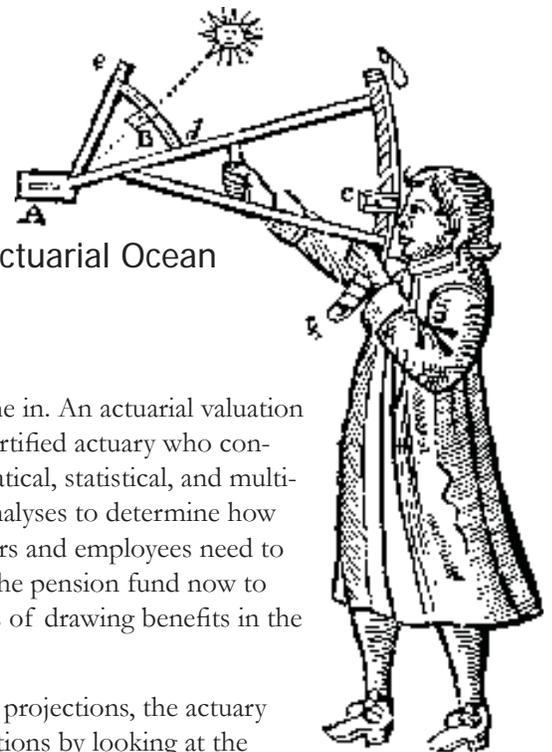
#### Looking Back to Predict the Future

The two largest public employee pension plans in Montana are the Public Employees' Retirement System Defined Benefit Plan (PERS-DB) and the Teachers' Retirement System (TRS), which is also a defined benefit plan. In defined benefit plans, benefit amounts are defined by a formula based on an employee's salary and years of service. However, the cost for these benefits has to be estimated. This is where actuarial

## Trenk Retires, Gow Named as Replacement

Congratulations to Hank Trenk and Dale Gow. Trenk recently retired as chief information officer of the legislative branch, after working for the branch for more than 32 years and for state government for more than 36 years. Trenk was able to participate with the Legislative Council for lunch at the strategic planning session in August and to provide words of wisdom before his departure. We thank him for all his hard work and wish all the best in his next adventures.

Gow, former network manager for the Legislative Services Division, was promoted through a competitive process to become the new CIO for the legislative branch. He has hit the ground running, and we all look forward to working with him in his new capacity.



valuations come in. An actuarial valuation is done by a certified actuary who conducts mathematical, statistical, and multi-dimensional analyses to determine how much employers and employees need to contribute to the pension fund now to cover the costs of drawing benefits in the future.

To make these projections, the actuary makes assumptions by looking at the past. In other words, conducting an actuarial valuation is a bit like trying to determine what the ship's heading should be by looking at the ship's wake.

#### Navigating by Assumption

Actuaries make both demographic assumptions and economic assumptions when conducting actuarial valuations for pension plans.

Some of the key demographic assumptions include the number of employees who will become plan members in the future, the benefit options they will choose for spouses or beneficiaries, the number of employees who will become disabled or retire early, how many years employees will work before choosing to retire, how old employees will be when

they retire, and how long retirees, spouses, or beneficiaries will be drawing pension benefits.

Key economic assumptions include the salaries that employees will be paid, how their salaries will grow, how inflation will affect the equation, how much plan expenses will be, how much money will be contributed to the plan, and how much the investment of these contributions will earn over time.

All of these assumptions must look over the horizon, not just at the visible waters, to determine how much money needs to be contributed now in order to keep the pension funds sound. Of course, the assumed rate of return on investments is a key assumption. The assumed rate of return is the primary component of any estimate of pension plan costs, and the Legislature must use the estimate of pension costs when setting the rates for how much money plan members, local employers, and the state must contribute.

### How Assumptions Are Set

Who is responsible for setting the demographic and economic assumptions that are used by the actuary? Article VIII, Section 15 of the Montana Constitution states: “[t]he governing boards of public retirement systems shall administer the system, including actuarial determinations, as fiduciaries of system participants and their beneficiaries.” This constitutional provision has been commonly interpreted as making the public employee retirement boards responsible for setting the actuarial assumptions

Who are these boards? The seven members of the Public Employees’ Retirement Board (PERB) and the six members of the Teachers’ Retirement Board (TRB) are appointed by the governor to five-year staggered terms according to the membership criteria set in statute.<sup>1</sup> These are part-time boards that meet monthly. Each board contracts with an actuarial firm and certified actuaries to conduct actuarial valuations for the retirement systems the board administers. Based on the information provided by these consulting actuaries, the retirement boards adopt the assumptions that the actuaries use when conducting the valuation. The meetings of these boards are open to the public, and public comment is always invited. Portions of the meetings may be closed if the board is discussing confidential and constitutionally protected personal information about plan members and their benefits.

How do retirement board members determine what the actuarial assumptions should be? As is a good practice for retirement boards, every four or five years, the boards ask their actuaries to conduct an experience study. Because actual experience will almost always differ from estimates, these experience studies compare the demographic and economic assumptions with the plan’s actual experience. For example, they look at whether employees retired earlier or later than expected or drew benefits for longer or shorter periods than

expected, whether the inflation rate was higher or lower than expected, and whether investment returns exceeded or fell short of expectations. Based on this comparison of experience to the assumptions, the actuaries make recommendations to the board about whether and how to make course corrections by adjusting assumptions.

Because pension plan funding involves long-term projections, actual experience is usually measured using a long-term lens to see across the ocean and beyond the visible horizon. This actuarial science is complex, and the [Actuarial Standards Board](#) sets strict standards for certified actuaries to follow. These standards cover dozens of practices such as risk classification, trending, and data quality. Gradual corrections in the assumptions will make a big difference over time and keep the pension plan ship sailing smoothly. However, sudden course corrections are more likely to require constant adjustments in course heading and result in not-so-smooth sailing.

Actuaries used a 7.75 percent investment return assumption for all of Montana’s public employee pension plans for the June 30, 2012, actuarial valuations done just prior to the 2013 legislative session. The actuarial valuations for PERS-DB and TRS showed that these systems were actuarially unsound because about \$106 million in unfunded liabilities could not be paid off (amortized) in any amount of time, and the amount was increasing each year. To be actuarially sound, these liabilities would need to be paid off by contributions and investment earnings within 30 years.

The valuations also showed that the percentage of the PERS-DB liabilities that could be funded by the plan’s assets, or its “funded ratio,” was 67.4 percent. The TRS funded ratio was 59.24 percent. Experts tend to agree that a plan should be at least 80 percent funded. The ultimate goal, of course, is to be 100 percent funded or better in order to absorb the ups and downs of the actuarial ocean.

### The Legislature Acts

To get the pension plans back on a sound heading, the 2013 Legislature ultimately passed bills that reduced benefits and increased contributions in both PERS-DB and TRS. The key bills, House Bill 454 for PERS and HB 377 for TRS, were





signed by the governor and became law on July 1, 2013. The amount of the benefit reductions and the amount of the increases in contributions in these bills were tied to actuarial determinations about each plan's funded ratio and amortization period.

In general, at least with respect to HB 377, if the actuarial valuations showed the plan was well-funded, the additional supplemental contributions could be decreased and the annual benefit adjustments increased. If the actuarial valuations showed the plan was not-so-well funded, the annual benefit adjustments would decrease, and the contributions would increase. Because these "triggers" depend on the actuarial valuations, the actuarial assumptions used have received a heightened level of political scrutiny.

### **An Actuarial Experience Study Is Conducted**

On Sept. 12, the PERB received the results of a special experience study the board had requested in the wake of the benefit and funding changes made in HB 454.<sup>2</sup> Complete experience studies involve an examination of both the demographic assumptions and the economic assumptions used in the valuations. However, this special study examined only the economic assumptions, specifically looking at the inflation rate, the investment rate of return (sometimes called the discount rate), wage growth, and administrative expenses. Additionally, the study took only a high-level look at data and did not drill down into specific data sets.

As previously mentioned, the purpose of an experience study is to determine whether a course correction is needed by changing the actuarial assumptions. The actuary's report

stated that in conducting the economic experience study, the actuary considered other public pension plans, past experience of the PERB, historical data in general, the outlook for the future, and the board's preference regarding the risks involved when actuarial assumptions deviate from actual experience.

The report, which was a series of [PowerPoint slides](#), summarized the actuary's recommendation concerning the investment rate of return — the most significant actuarial assumption — as follows (with minimal editorial license to clarify the language of the slides):

- the current investment rate of return assumption of 7.75 percent is still within a reasonable range and is slightly below the average in the latest National Association of State Retirement Administrators (NASRA) survey of assumptions used for other statewide pension funds;
- using the past 10 years of data, which has a standard deviation of 13.6 percent, the average investment return was 7.38 percent;
- when compared to a hypothetical average of 7.65 percent in investment returns if pension plan asset had been invested according to an asset allocation strategy used by the investment consulting firm for the Montana Board of Investments, the 7.38 percent average return represents a 0.27 percent decrease in potential investment returns;<sup>3</sup>
- the NASRA average return has decreased 0.10 percent since 2010; and

- the actuary recommends that the PERB consider a decrease in the investment rate of return assumption of up to 0.25 percent, which would result in a new rate of 7.5 percent.

This recommendation was made as part of a package of recommendations about other economic assumptions studied. A full experience study for PERS-DB is scheduled for 2015. The actuary also indicated in his oral presentation to the PERB that small course corrections such as this would make a large difference over time. He also likened the pension plan to the Queen Mary, moving slowly in a large ocean, and said it is neither necessary nor desirable to make large course corrections or to make them too quickly.

Following the actuary's presentation, the question before the PERB was whether to adjust the actuarial assumptions, including the investment rate of return assumption, for the June 30, 2013, valuation or whether to wait until the next valuation for fiscal year 2014 or until the next full experience study in 2015. At the meeting, Budget Director Dan Villa and TRS Executive Director David Senn provided public comment. Villa urged the board to wait on making changes on any of the assumptions until after the HB 454 provisions had a chance to take effect. He also noted that there would be a 5 percent pay increase for state employees, which could affect the wage inflation assumption. Senn also urged the board to wait because historically, as the market improves, there is pressure to increase the investment rate of return assumption.

### Steady as She Goes

After much discussion, with some PERB members expressing support for changing the assumptions and other members opposing any changes at this time, the board ultimately decided against altering any of its actuarial assumptions right now.<sup>4</sup> Meanwhile, the TRB had not requested a special experience study for TRS and did not discuss any changes to

its actuarial assumptions. Thus the investment rate of return assumption in both PERS-DB and TRS remains the same, at 7.75 percent.

As the dust settles from the PERB debate on its actuarial assumptions, the bottom line is that the actuarial valuations for both the PERS-DB plan and TRS were conducted based on the same assumptions that were in place when the Legislature considered and passed HB 454 and HB 377. The table at the bottom of this page compares the results of the June 30, 2012, valuations with the June 30, 2013, valuations. The last column in the table shows what the funding status of the retirement systems would be if the benefit reductions in the Guaranteed Annual Benefit Adjustments (GABA) are overturned by a court.<sup>5</sup>

### More Political Scrutiny

Because the GABA benefit level and supplemental contribution amounts in PERS-DB and TRS are now tied in statute to funded ratios and amortization periods, the annual actuarial valuation has been the focal point for political scrutiny. Legislators have even more of a vested interest in understanding how actuarial valuations are done, by whom, and based on what assumptions.

The Montana Constitution vests the retirement boards with the responsibility of administering the public pension systems as fiduciaries for the members and beneficiaries of the plan and with making actuarial determinations. The board fulfills this responsibility by hiring certified actuaries. These actuaries prepare experience studies to help the boards determine what demographic and economic assumptions to make and when and how to adjust them. When conducting annual actuarial valuations, the actuaries apply the adopted set of assumptions to determine the actuarial soundness of the system.

**Summary of the June 30, 2013, Actuarial Valuation Results**

Retirement System	FY 2012		FY 2013		If 2013 GABA Reductions Are Overturned by Court	
	Funded Ratio	Amortization Period	Funded Ratio	Amortization Period	Funded Ratio	Amortization Period
Public Employees' Retirement System	67.4%	Does not amortize	80%	14.5 years	70 percent	43.7 years
Teachers' Retirement System	59.2%	Does not amortize	66.8%	20 years	61.81 percent	29 years

## The Navigational Challenge in Changing Seas

These actuarial assumptions, especially the investment rate of return assumption, are likely to receive more political scrutiny in the future. When all is said and done, however, the key to navigating the actuarial ocean is to focus on how actual experience deviates from the assumptions. If experience is significantly better than expected, the retirement plan could become over funded. If experience is significantly worse than expected, the plan could become under funded.

Deviation is the risk. But it is deviation over a significant amount of time, such as 20 or 30 years, that is the concern. Thus if one navigates too conservatively over time, current employees and public employers (i.e., taxpayers) will be overcharged for the benefits actually paid. But if one navigates too optimistically, current employees and taxpayers will be undercharged and future employees and taxpayers will face the consequences. The Legislature, the governor, the retirement boards, and the Board of Investments all have a significant role to play in artfully applying the science behind this navigational challenge.

<sup>1</sup>See section 2-15-1009, [Montana Code Annotated \(MCA\)](#) for the membership of the PERB and 2-15-1010, [MCA](#) for the membership of the TRB.

<sup>2</sup>See the [Aug. 12, 2013, minutes](#) of the PERB meeting.

<sup>3</sup>The Montana Board of Investments reported to the State Administration and Veterans' Affairs Interim Committee on Oct. 2, 2013, that the average annual return it has realized on PERS investments since fiscal year 1995, which included the Great Recession, was 7.47 percent.

<sup>4</sup>The [summary minutes](#) and audio of the PERB meeting on Sept. 12 are available to the public.

<sup>5</sup>The GABA is an automatic annual increase in a benefit payment based on a percentage set in the statute. Prior to HB 454, the GABA for PERS-DB was set at 3 percent and 1.5 percent for all employees hired after July 1, 2007. Prior to HB 377, the GABA for TRS was 1.5 percent. The two bills reduced these GABA amounts. However, a lawsuit has been filed to overturn the GABA reduction under HB 377 for TRS members on the grounds that the reduction violates members' contractual rights to their retirement benefits. A similar lawsuit is expected for the GABA reduction in PERS-DB under HB 454.