



Newsletter

In This Issue

Children, Families, Health, & Human Services Committee	1
Commission on Sentencing	2
Economic Affairs Committee	2
Education & Local Government Committee	3
Judicial Redistricting Commission	3
Law and Justice Committee	4
Legislative Audit Division Earns National Award	4
Legislative Council	4
Revenue and Transportation Committee	5
School Funding Commission	5
State Administration & Veterans' Affairs	5
State-Tribal Relations Committee	6
Water Policy Committee	6
The Back Page: Montana's Entrepreneurial Spirit Ranks No. 1: With Crowdfunding, What Then?	8

Children and Families Committee to Take Up Medicaid Expansion and Assigned Studies

The Children, Families, Health, and Human Services Interim Committee will meet in September to begin work on its three assigned studies and to review the state's plan to expand the Medicaid program to low-income, childless adults.

Over the next 12 months, the committee will carry out two studies that are required by bills passed during the 2015 legislative session as well as an expanded version of a study requested by resolution.

House Bill 422 requires the committee to study evidence-based outcomes for children's mental health services and performance-based reimbursement for providers. The bill also directs the committee to draft pilot project legislation for consideration by the 2017 Legislature.

Senate Bill 418 requires the committee to monitor and evaluate how new funding for mental health services is used in this two-year budget period. The committee is to provide a report to the 2017 Legislature and suggest changes, if necessary.

Senate Joint Resolution 22 asked for a study of the state's guardianship laws and programs. The committee agreed in June to expand the study to include topics related to Alzheimer's disease.

Also during the September meeting, the committee will review the proposal that the state will submit to the federal government for expanding the Medicaid program to nondisabled, childless adults with incomes at or below 138 percent of poverty. State law requires the committee to review the proposal because it asks that certain federal Medicaid requirements be suspended in order to carry out some elements of Senate Bill 405. SB 405 allows this new group to enroll in Medicaid but requires the enrollees to pay premiums and a portion of their medical costs to participate.

Next Meeting

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

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

Committee Staff: soconnell@mt.gov or 406-444-3597

Commission on Sentencing Appointed, First Meeting Set

Appointments to the Commission on Sentencing are complete. Created by Senate Bill 224, the commission will examine Montana's sentencing policies and practices and their impact on the criminal justice system. The 15-member commission consists of representatives from all three branches of state government and includes local government and public members as well.

Legislative leaders selected four legislators to serve on the commission: Sen. Kris Hansen (R-Havre); Sen. Cynthia Wolken (D-Missoula), the sponsor of SB 224; Rep. Margaret "Margie" MacDonald (D-Billings); and Rep. Matthew Monforton (R-Bozeman).

Chief Justice Mike McGrath appointed Judge Ingrid Gustafson of the 13th Judicial District as the district court judge on the panel. Department of Corrections Director Mike Batista and Peter Ohman, a public defender from Bozeman appointed by the chief public defender, will also serve on the panel.

Attorney General Tim Fox appointed Pondera County Attorney Mary Ann Ries; Majel Russell, an attorney from Billings; Jennie Hansen, a Billings-area probation and parole officer with the Department of Corrections; Toole County Sheriff Donna Whitt; and Dan Guzynski, an assistant attorney general. Gov. Steve Bullock appointed three public members: Derek Gibbs of Lewistown, the Rev. Roxanne Klingensmith of Bozeman, and LeAnn Montes of Box Elder.

First Meeting

The commission's first meeting will be on Sept. 2 in Room 137 of the Capitol in Helena.

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

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

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

Air Ambulances and Acupuncture Among Topics for Economic Affairs Committee Meeting

Regulation of air ambulances, industry and agency overviews, and a dry-needling rule proposed by the Board of Physical Therapy Examiners and opposed by acupuncturists will share

Economic Affairs Interim Committee agenda time Aug. 31 and Sept. 1.

The House Joint Resolution 29 study of membership-based health care will draw on the expertise of insurers, regulators, and air ambulance operators to help the committee determine the potential outcomes for the study, which is expected to center on air ambulances.

Also on the agenda are an overview of the alcohol industry and agency monitoring of the Department of Commerce, the Governor's Office of Economic Development, and the Department of Livestock. The Department of Livestock's budget in particular will be a focus of the committee, as required by House Bill 2.

Both the review of Department of Livestock's budget and a study of licensing boards required by Senate Bill 390 relate to the use of fees, whether generated through per capita fees in lieu of property taxes or licensing. A discussion of when taxes rather than fees are appropriate for program funding will precede the Department of Livestock budget review.

Other agenda items include:

- a review of and public comment on a proposed dry-needling rule sought by the Board of Physical Therapy Examiners and opposed by acupuncturists. A majority of the committee asked that the rule be on this agenda, which has temporarily prevented the rule's official adoption.
- a discussion of broadband telecommunication, its role in economic development, and whether a state role is needed to improve access to and affordability of broadband throughout the state;
- a tour of the Business Standards Division at the Department of Labor and Industry; and
- a review and adoption of the committee's 2015-2016 interim work plan.

Next Meeting

The committee next meets at 10 a.m. on Aug. 31 in Room 137 of the Capitol in Helena and at 8 a.m. on Sept. 1 in the same room. For more information on the committee's activities or next meeting, visit the committee website or contact Pat Murdo, committee staff.

Committee Website: www.leg.mt.gov/eaic
Committee Staff: pmurdo@mt.gov or 406-444-3594

Education and Local Government Committee Elects Officers, Receives Reports

The Education and Local Government Interim Committee convened for its first meeting of the 2015-2016 interim on July 16. Members unanimously chose Rep. Don Jones (R-Billings) as presiding officer and Sen. Sharon Stewart-Peregoy (D-Crow Agency) as vice presiding officer. The committee also approved a work plan and meeting schedule. Representatives of K-12, university system, and local government entities reported on their activities and provided information on the ELG's three assigned studies. The Department of Natural Resources and Conservation also offered introductory information on the committee's studies of county roads on state trust land and local fire and emergency services.

Agency Reports

The Office of Public Instruction reported on measures the agency is taking to implement Senate Bill 410, which provides tax credits for contributions to "innovative educational programs" at public schools and scholarships for private school students. OPI also discussed its establishment of a negotiated rulemaking committee to develop a process, criteria, and a mechanism for distributing money deposited in the state school oil and natural gas distribution account under Senate Bill 260. OPI is also establishing a negotiated rulemaking committee to work with OPI on accreditation standards and to review the accompanying economic impact statements. As required in Senate Bill 345, the economic impact statements must be submitted to ELG for review prior to adoption or amendment of accreditation standards. OPI also discussed its receipt of a federal preschool development grant to improve access to preschool education in 16 high-need communities.

The Office of the Commissioner of Higher Education reported on its implementation of House Bill 617, which establishes a science, technology, engineering, and mathematics scholarship program funded by lottery revenue. OCHE will administer the program, for which \$400,000 has been allocated for fiscal year 2016. The bill provides specific eligibility criteria and scholarship award amounts. OCHE is also engaged in the Montana University System Research Initiative, aimed at growing the state's economy and leveraging university-level research to create private sector jobs. A one-time-only appropriation in House Bill 2 provided \$15 million for the initiative. A panel is evaluating 12 proposals to determine which projects will receive funding. ELG will continue to follow the initiative and learn more about the funded projects.

Members of the Board of Public Education, which was meeting the same day as ELG, stopped in briefly to introduce themselves to committee members and to discuss their agenda.

Introductory Information on Studies Provided

ELG staff, agency staff, representatives of relevant organizations, and the public provided baseline information on the three studies the committee has been assigned. The studies deal with implementation of youth concussion laws (House Joint Resolution 26), county road rights-of-way on state trust land (Senate Joint Resolution 20), and local fire and emergency services (Senate Joint Resolution 21).

Next Meeting

The committee meets next on Sept. 24-25. For more information on the committee's activities and upcoming meeting, visit the committee's website or contact Leanne Kurtz, committee staff.

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

Committee Staff: 406-444-3593 or lekurtz@mt.gov

Judicial Redistricting Commission Appointments Complete

All members of the Judicial Redistricting Commission were appointed by early July, well in advance of the July 31 deadline imposed by House Bill 430, the legislation creating the commission. The two legislative members appointed by legislative leaders in both chambers are Sen. Kris Hansen (R-Havre) and Rep. Nate McConnell (D-Missoula). The chief justice of the Montana Supreme Court appointed District Court judges Ray Dayton, 3rd Judicial District, and Greg Todd, 13th Judicial District. Rick Cook, the clerk of District Court in Chouteau County will serve as the representative of the Montana Association of Clerks of District Court. Madison County Commissioner Dave Schulz will serve as the appointee from the Montana Association of Counties. The president of the State Bar of Montana appointed Emily Jones of Billings to serve as the bar representative.

First Meeting

The commission's first meeting is on Sept. 3 in Room 137 of the Capitol in Helena. To receive e-mail updates about the commission's activities, including meeting dates and when agendas and other meeting materials are available, please sign up at http://leg.mt.gov/css/Lyris/email_logon.asp.

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

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

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

Law and Justice Committee Elects Officers, Approves Work Plan

The Law and Justice Interim Committee met June 25 to plan its work for the 2015-2016 interim. Members elected Sen. Scott Sales (R-Bozeman) as presiding officer and chose Sen. Diane Sands (D-Missoula) as vice presiding officer. The LJIC also adopted a work plan and approved a study plan for its only assigned study, the Senate Joint Resolution 24 study of sexual assault in Montana.

Representatives from the judicial branch and the agencies and boards under the LJIC's jurisdiction introduced themselves to the committee members, talked about their organizations, and fielded questions from the members. The agencies required by law to report to the LJIC are:

- the Department of Justice;
- the Department of Corrections;
- the Office of the State Public Defender; and
- agencies or boards that are administratively attached to those departments, including the Board of Crime Control, the Board of Pardons and Parole, and the Public Safety Officer Standards and Training Council.

The LJIC also serves as the liaison to the judicial branch.

After listening to a report by the Department of Corrections about its re-entry task force, the LJIC heard a brief review from the Montana Department of Justice of Montana's current sexual assault statutes and an update on the department's recent work to improve responses to sexual assault in Montana.

The committee agreed to allocate approximately 40 percent of its time to the SJR 24 study of sexual assault. As part of the study, the members requested that staff work with the Department of Justice's staff and other stakeholders to review the adequacy of Montana's sexual assault statutes and to report back to the full committee. The LJIC voted to divide its remaining time equally between its statutorily assigned agency oversight duties and issues raised by committee members. Issues raised by LJIC members that will be featured on future agendas include:

- local governments' challenges with current public intoxication laws;
- best practices for conducting eyewitness identification lineups and Montana's current policies and practices relating to these lineups; and
- updates on the work of three criminal-justice related entities that will be studying judicial redistricting, the public defender system, and Montana's sentencing and corrections laws.

The committee asked staff to arrange a tour of the Crossroads Correctional Center, a privately run prison in Shelby that houses state and federal inmates, and added a day to its meeting schedule to accommodate that trip.

Next Meeting

The committee meets next Sept. 28-30 in Helena. For more information on the committee's activities and upcoming meeting, visit the committee's website or contact Rachel Weiss, committee staff.

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

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

Legislative Audit Division Earns National Award

A national group recently recognized the work of the Legislative Audit Division by awarding a Certificate of Impact for one of the division's performance audits. The National Legislative Program Evaluation Society (NLPES) awarded the certificate for the "Childhood Immunization Requirements in Montana" audit.

The audit found Montana's young children could be better protected against vaccine-preventable diseases by aligning state immunization requirements with Centers for Disease Control and Prevention recommendations, monitoring preschool immunization activity, improving verification and reporting of immunization records for schools, obtaining more statutory guidance for the use of the state's immunization registry, and improving controls to ensure data within the immunization registry is accurate and reliable. The NLPES Certificates of Impact are awarded to legislative audit offices for recently released reports that have at least two of the following documented policy impacts: impacts from the legislature's perspective, impacts from the public's perspective, impacts from the perspectives of other organizations, program improvements as a result of implementing audit recommendations, and dollar savings from implementing audit recommendations. The complete immunization audit is on the Legislative Audit Division website, <http://leg.mt.gov/content/Publications/Audit/Report/13P-07.pdf>.

Legislative Council

Next Meeting

The Legislative Council will meet Aug. 13-14 for its biennial off-campus strategic planning session after a short business meeting at the Capitol in Helena. The business meeting will be held Aug. 13 at 9:30 a.m. until 11:30 a.m. in Room 102.

For more information, visit the council's website or contact Susan Byorth Fox, council staff.

Council Website: www.leg.mt.gov/legcouncil
Council Staff: sfox@mt.gov or 406-444-3066

Revenue and Transportation Committee Conducts Poll on Study Topics

The Revenue and Transportation Interim Committee held its organizational meeting July 9 in Helena. The committee elected Sen. Fred Thomas (R-Stevensville) as presiding officer and Rep. Tom Jacobson (D-Great Falls) as vice presiding officer.

Much of the meeting was devoted to the proposed work plan and possible study topics. The Legislative Council did not assign any studies to the committee, so the committee discussed study topics suggested by committee members and staff. The discussion concluded with the committee asking staff to poll committee members on 13 possible taxation and transportation study topics. The poll results will be presented to the committee in an August conference call, at which time the committee is expected to select study topics.

At the organizational meeting, the committee also received agency introductions and updates from the departments of Revenue and Transportation and the State Tax Appeal Board. In addition, the Legislative Fiscal Division presented a general fund revenue collection report.

Following the August conference call, the committee is expected to hold the next regular meeting in late September or October. The exact date will be discussed during the August conference call.

Next Meeting

The committee will hold a conference call on Aug. 3 at 11 a.m. The call will originate from Room 137 of the Capitol in Helena. For more information on the committee's activities or upcoming meeting, visit the committee's website or contact Megan Moore, committee staff.

Committee Website: www.leg.mt.gov/rtic
Committee Staff: memoore@mt.gov or 406 444 4496

School Funding Commission Appointments Complete, First Meeting Scheduled

The remaining appointments to the 16-member School Funding Interim Commission were finalized in July. The commission's legislative members are Sen. Elsie Arntzen (R-Billings), Sen. Tom Facey (D-Missoula), Sen. Kristin Hansen (R-Havre), Sen. Mary Sheehy Moe (D-Great Falls), Sen.

Matthew Rosendale (R-Glendive), Sen. Lea Whitford (D-Cut Bank), Rep. Jeff Essmann (R-Billings), Rep. Don Jones (R-Billings), Rep. Kathy Kelker (D-Billings), Rep. Debra Lamm (R-Livingston), Rep. Edie McClafferty (D-Butte), and Rep. Susan Webber (D-Browning). The four public members are former legislator Dave Lewis of Helena; Aidan Myhre, presiding officer of the Helena Public Schools Board of Trustees; Patricia Hubbard, Billings Public Schools; and Renee Rasmussen, superintendent of Bainville Public School.

The School Funding Interim Commission was created by Senate Bill 128 and fulfilled an existing statutory requirement that the Legislature at least every 10 years authorize a "study to reassess the educational needs and costs related to the basic system of free quality public elementary and secondary schools." This study is sometimes referred to as "the decennial study."

Next Meeting

The commission's first meeting is scheduled for Sept. 23 in Room 137 of the Capitol in Helena. For more information on the commission's activities and upcoming meeting, visit the commission's website or contact Pad McCracken, commission staff.

Commission Website: www.leg.mt.gov/sfc
Commission Staff: padmccracken@mt.gov or 406 444 3595

State Administration Committee to Examine Personal Data Ownership

The State Administration and Veterans' Affairs Interim Committee this interim will be examining who owns and may rightfully distribute or sell personal information collected by governmental and corporate entities. The 2015 Legislature requested this study through House Joint Resolution 21, sponsored by Rep. Bryce Bennett (D-Missoula), to clarify ownership of personal data, identify how individuals might exercise greater control over their information, and examine how best to balance personal rights with business and governmental interests.

SAVA will also be conducting its regular statutory oversight duties, which encompass public employee pensions, elections, campaign finance, military and veterans' affairs, and other matters of state administration.

First Meeting

The committee's first meeting will be Aug. 19, beginning at 9 a.m. in Room 137 of the Capitol in Helena. The meeting will involve overviews of the committee's assigned executive branch agencies, a presentation and discussion of rules proposed by the commissioner of political practices related

to recently enacted campaign finance bills, and the committee's discussion and adoption of work plan priorities for the interim.

Public comment is always welcome as scheduled on the agenda. For more information and a meeting agenda, visit the committee's website or contact Sheri Scurr, committee staff.

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

Committee Staff: sscurr@mt.gov or (406)444-3596

State-Tribal Relations Committee Elects Officers, Sets Work Plan

The State-Tribal Relations Interim Committee met July 9-10 in Browning to elect officers, set its work priorities, and meet with members of the Blackfeet Tribal Business Council and the Glacier County Commissioners, among others.

The STRC re-elected Senator Jonathan Windy Boy (D-Box Elder) as its presiding officer and Rep. Alan Doane (R-Bloomfield) as its vice-presiding officer. The two have served in those capacities since 2013.

Blackfeet Tribal Business Council Chairman Harry Barnes, council Secretary Tyson Running Wolf, and council member William "Bill" Old Chief met with the STRC on July 9. They discussed rebuilding the Blackfeet court system, law enforcement jurisdiction, economic development and related financial challenges, oil and gas leases in the Badger-Two Medicine region, bison transportation, various tax assessments and distribution, road impacts, the potential for changing the name of Glacier County, relationships with fish and wildlife agencies, the Endangered Species Act, the Blackfeet water rights compact, grants for improvement of recreational properties, and the U.S. Department of Interior's land buy-back program.

After meeting with the council, the committee heard from participants in the Blackfeet Language Preservation Program about how they spent a \$250,000 state appropriation to promote and teach the Blackfeet language to nonspeakers.

The STRC then met with Glacier County Commissioners on July 10. Commissioner Mike DesRosier discussed various county tax issues, financing needed to establish businesses on trust land within the Blackfeet Reservation, and law enforcement jurisdictional agreements between the tribe and the county.

The STRC spent a good portion of its time hashing out its work plan. The committee allocated its available study time to the following topics:

1) jurisdictional issues, specifically:

- the Indian Child Welfare Act and Child Protective Services;

- gas, alcohol, and tobacco tax collection and distribution;
- and
- the legal underpinnings of various governments' authority, including an examination of the duties, responsibilities, and limitations of each party to cross-jurisdictional agreements;

- 2) financial assistance to the tribes through state agencies with respect to the selected jurisdictional issues;
- 3) economic impacts and financing of tribal colleges;
- 4) public charter schools on reservations; and
- 5) cultural patrimony and sacred objects and sites.

The STRC intends to receive updates during the interim on:

- the expenditure of \$250,000 appropriated for Indian suicide prevention;
- the St. Mary's Diversion and Canal water project;
- Montana's Indian language preservation and school immersion programs;
- the expenditure of \$500,000 appropriated for a Native American gap financing revolving loan program;
- participation of federally funded Bureau of Indian Education schools in interscholastic competitions; and
- the impacts on reservation schools of Senate Bill 410, which authorizes income tax credits for donations made to student scholarship organizations or to the educational improvement state special revenue account, which is for innovative educational programs and addressing technology deficiencies.

Next Meeting

The committee meets next on Oct. 21-22 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 Hope Stockwell, committee staff. A full agenda and meeting materials will be posted approximately two weeks in advance of the meeting.

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

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

Water Policy Committee to Discuss Controversial Federal Rule

A recent, contentious federal rule will likely be a focus of September's Water Policy Interim Committee meeting. During the two-day meeting, the committee will hear an update to a final federal rule defining "waters of the United States."

The Environmental Protection Agency and U.S. Army Corps of Engineers released a final rule defining the term in May. The rule is effective at the end of August. The EPA and Corps have said the rule was necessary to clarify part of the Clean Water Act, which had become difficult to administer due to two U.S. Supreme Court rulings. The new rule may affect how the Montana Department of Environmental Quality administers discharge permits and how the Corps administers section 404 permits, also known as dredge and fill permits.

Opponents have said the rule is an illegal expansion of federal jurisdiction. Montana Attorney General Tim Fox joined 12 other states recently in suing the federal government over the rule.

The discussion about the “waters of the United States” rule comes as the committee begins its study of how the state might assume the dredge and fill permitting program from the Corps.

At its September meeting, the committee will also:

- begin a study regarding the future of the Montana Water Court;
- receive an update on State Water Plan implementation;
- receive an update on the legal status of exempt groundwater wells; and
- receive a report on future federal ammonia standards for wastewater treatment lagoons.

Next Meeting

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

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

Committee Staff: jasonmohr@mt.gov or 406-444-1640

The Back Page

Montana's Entrepreneurial Spirit Ranks No. 1: With Crowdfunding, What Then?

by Pat Murdo, Legislative Research Analyst
Legislative Services Division

Imagine you are a well-established shopkeeper. Your reputation has earned word-of-mouth recommendations far beyond your hometown. So you think that expanding your business might be a good idea. Perhaps there are deep-pocketed folks who might like to help you. But how do you tap them for funding?

Or perhaps you have a great idea for a new product, but no money to begin production. What's your plan?

Before social media came on the scene, the typical Montana entrepreneur might try to obtain funds from friends, family, credit cards, the local bank, the local economic development agency, or some other entity listed on a state business-oriented website. And that entrepreneur might run the risk of going into deep debt through borrowing. Or the entrepreneur might have sought out accredited investors, requiring registration with state and federal securities entities.

Montana Ranks Top in Startups

Even though these somewhat old-fashioned mechanisms have been the tool, Montana's entrepreneurs have ranked top in the nation for two years running, according to an index calculated by the entrepreneur-focused Ewing Marion Kauffman Foundation. Second-ranked Wyoming was more than 2 points lower in the index at 2.04 than Montana at 4.77. (The Kauffman Foundation's definition of startup is a firm in existence for less than a year and that employed at least one person other than the owner. For more information on the rankings see www.kauffman.org/microsites/kauffman-index/rankings.)

Where's the Money?

Business development is accomplished in steps: creating a business is one step; maintenance is another; growth is yet another. Financing is important at every step, but the types of financing may differ depending on the goals of the busi-

ness and the owner. When people hear that a computer whiz kid started a business in a garage, that sounds simple enough, but the magic formula between tinkering with a product in a garage and selling millions of products nationwide is more complicated. Few people can afford to finance the whole project themselves.

A website that aims to help entrepreneurs and others make the most of their opportunities, about.udemy.com, has a free online course for entrepreneurs that provides 10 questions for those interested in starting a business. The last question asks the entrepreneur to decide whether to give up a certain percentage of the company to investors and, if so, then how much.

How an entrepreneur answers this question is key to determining what types of financing the entrepreneur should pursue and at what stages. Almost all types of new businesses are looking for startup funds, whether they are spinoffs created by university-based researchers accustomed to federal grants or mom-and-pop enterprises seeking funds from grandma and grandpa.

Most new businesses are wary of assuming too much debt. Similarly, those who loan money are leery of lending to someone who is compiling too much debt. The answer for these situations is to search out investors. A large-scale startup may want to consider registering with the Securities and Exchange Commission as well as the state's securities regulator (the State Auditor's Office), particularly if there is downstream potential for trying to raise a large amount of money by selling shares in the company to 35 or more investors. This route is complicated but safe.

However, if a business is starting small, there may be simpler options, such as crowdfunding, which is exempt from securities registration and was made available in Montana when [House Bill 481](#) won approval from the 2015 Legislature and the governor.

Sometimes Free, Usually a Tradeoff

Crowdfunding websites such as Kickstarter and GoFundMe might be the first funding thought for a trendy young entrepreneur. A good business pitch actually might generate no-strings-attached funds from these and similar crowdfunding websites where the funding is basically a donation with no expectation by the contributor of a return on their contribution, other than perhaps a sample of the product or use of a service.

Kickstarter, for example, has helped musicians record songs and gain a following. GoFundMe has helped cancer patients pay their medical bills or let family members accompany sick children to distant hospitals for treatment. Entertainer Taylor Swift made the news by giving \$50,000 in installments through GoFundMe to an 11-year-old suffering from leukemia.

For business owners willing to sell a stake in their company, however, financing options range from angel investors and venture capitalists to the new crowdfunding option.

Angel investors and venture capitalists typically not only invest in a business but also offer guidance or request some managerial control. Also, the SEC wants to make sure that angel investors and venture capitalists are accredited investors. An accredited investor, in simple terms, means someone who can afford to lose the investment. For an individual accredited investor, annual income must exceed \$200,000 (or \$300,000 jointly with a spouse) or the net worth must exceed \$1 million (excluding the value of the primary residence).

A startup that initially wants sophisticated investors playing a role in the company may seek to become a publicly traded company. The potential for an initial public offering is what attracts many accredited investors who anticipate selling their interest in the company for many times more than their initial investment.

Montana was once considered a fly-by state in the venture capital world. But, now there is a new venture capital fund in Montana, Next Frontier Capital, operating out of Bozeman. Next Frontier Capital has joined angel investors in the Flathead and Gallatin valleys and elsewhere in Montana, and is investing in potentially viable startups.

Smaller-Scale Investments

But, what if a startup is less interested in or is not attracting angel investors or venture capitalists and needs more money than donations, credit cards, and small-scale business loans can provide? Or what if the founding member of the startup wants to retain more control and not cede control to venture capitalists? These entrepreneurs can seek up to \$1 million a year from investors and avoid the hoops of SEC registra-

tion requirements by using the crowdfunding option allowed under HB 481.

HB 481's Crowdfunding Option

The State Auditor's Office, which supported HB 481, is traveling around Montana to explain how state securities regulators will be helping to implement HB 481. The first stop was in June, at Headwaters RC&D Area Inc. in Butte. The presentation there conveyed the following key points:

- The crowdfunding exemption means that an entrepreneur may make a general solicitation, such as a newspaper ad or internet posting inviting investors, provided that posted information fits the limits imposed by HB 481.
- Potential investors must live in Montana and may individually contribute no more than \$10,000, unless they fit within the definition of an accredited investor.
- The money raised under the crowdfunding exemption must be spent for the entrepreneur's Montana-based business and must be used for the purposes described to prospective investors.
- Total investments in one company each year may be no greater than \$1 million;
- Entrepreneurs seeking crowdfunding investments must still comply with disclosures required under federal and state securities laws.
- Within 10 days of a general solicitation or within 15 days after the first unsolicited sale that provides an equity security interest, the entrepreneur must file the required exemption form along with a \$50 filing fee with the State Auditor's Office. That five-page form is available at: http://csimt.gov/wp-content/uploads/Securities_Crowdfunding_Exemption.pdf.

What Crowdfunding Means in Montana

The exemptions to the securities laws under HB 481 mean that a new business may solicit investments annually without jumping through securities registration hoops, as long as they follow the above criteria. But some hoops remain. The founding member must have formed the business under the laws of Montana and registered with the Secretary of State. The person soliciting investors will have to ask investors for proof of Montana residency, which could mean asking for a photocopy of the investor's driver's license. Entrepreneurs may be disqualified from use of the exemption if they have prior felony convictions or are otherwise barred from being involved in the securities, banking, or insurance industries. Also ineligible for the exemption are investment companies and investment advisers. Finally, HB 481 requires entrepreneurs to let investors know that crowdfunding investments

could be considered securities that are exempt from federal or state registration.

The two primary goals of HB 481 were to lower the cost of raising capital and to make it easier for entrepreneurs to access investment capital. However, few money-raising efforts, including crowdfunding, equate to a walk in the park. The State Auditor's Office staff suggests that potential new business operators, whether seeking the crowdfunding exemption or not, talk with an attorney or, at the very least, contact the Securities Department at the State Auditor's Office, especially if they plan to make an offering to investors.

The State Auditor's Office staff also offered the following warnings about crowdfunding:

- Hundreds of "owners" may distract the company's management from devoting the time and energy necessary to run a successful business.
- Venture capital companies or private equity funds may be less inclined to invest in a company that already has a crowd of small investors.

What crowdfunding means to a state that already has a good entrepreneurial spirit remains to be seen. Roughly 25 other states have similar crowdfunding exemptions, which means that Montana, as the front-runner, should be able to keep pace with those states. In any case, a startup with greater funding options certainly has a greater chance of beating the odds for longevity, which are now about 50:50 nationwide.