

# Newsletter

#### In This Issue

# Tax Considerations for Legislator Per Diem Payments

This article is intended as general guidance to help legislators and their tax return preparers in handling legislator per diem payments during the 2015 legislative session. Legislators should consult with income tax experts for specific requirements relating to individual circumstances.

#### Legislators Living More than 50 Miles from the Capitol

Note: The per diem payments of legislators living more than 50 miles from the Capitol are not reported on their W-2 forms. In order to receive this preference, all legislators who served during the 2015 legislative session who live more than 50 miles from the Capitol signed a certification promising to make an election under 26 U.S.C. 162(h) when they file their taxes. This section explains how to make the election.

For legislators living more than 50 miles from the Capitol, per diem payments that do not exceed the amount allowed by federal law are considered the following:

- Reimbursements made under an accountable plan.
- Not taxable income to the legislator.
- Not subject to withholding or reporting by the employer.

The difference between the amount allowed by federal law and the actual amount of per diem paid to a legislator is considered an unreimbursed expense and may be a "miscellaneous items" deduction, subject to certain limitations.

#### Per Diem Is a Reimbursement Under an Accountable Plan

Per diem payments made to a legislator living more than 50 miles from the Capitol are considered employee reimbursements under an accountable plan for the following reasons:

- Under 26 U.S.C. 162(h), a legislator who makes an election is considered to have substantiated living expenses if the legislator's place of residence is more than 50 miles from the Capitol building.
- Federal law provides an accountable plan for when the employee's lodging plus meals and incidental expenses per diem reimbursement is considered substantiated (26 U.S.C. 62(a)(2)(A), 26 CFR 1.62-2(f)(2), and Rev. Proc. 2011-47). For additional details, see IRS Publication 463 (2014, p. 31), available for download at <a href="https://www.irs.gov">www.irs.gov</a>.

#### Per Diem Is Not Taxable Income

Under federal law, reimbursements under an accountable plan are treated as follows:

- They are excluded from the employee's gross income.
- They are not reported as wages or other compensation on the employee's W-2 form.
- They are exempt from the withholding and payment of employment taxes (Federal Insurance Contributions Act, Federal Unemployment Tax Act, and 26 CFR 1.62-2(c)(4)).

### Calculating Maximum Exemption Amount and Potential Miscellaneous Deduction

For a legislator living more than 50 miles from the Capitol, the total substantiated amount (not taxable) under federal law (26 U.S.C. 162(h)(1)(B)) may not exceed the greater of the federal per diem rate or the state per diem rate for Helena, as long as the state rate does not exceed 110 percent of the federal rate. During the 2015 session, Montana's rate did not exceed the federal rate. The state rate for lodging in Helena was \$89 plus applicable taxes, and the state rate for meals was \$23, for a total per diem rate of \$112 plus taxes (2-18-501, MCA). The federal per diem rate in 2015 was \$89 for lodging and \$56 for meals and incidental expenses for a total per diem rate of \$145 per day (for details, see the U.S. General Services Administration rates at <a href="https://www.gsa.gov">www.gsa.gov</a>).

During the 2015 regular legislative session, there was a 5-day break from February 28 through March 4 and a 5-day break from April 2 through April 6. Because Montana law (5-2-301(3), MCA) provides that legislators may receive per diem reimbursements for only 3 days of a break, legislators were paid per diem for only 3 days of each 5-day break. Thus, per diem was paid for a total of 110 regular legislative days at \$112.85 per day, so legislators received a total per diem reimbursement of \$12,413.50.

However, the federal tax code (26 U.S.C. 162(h)(2)(A)) allows reimbursement for deemed living expenses during breaks of 4 consecutive days or fewer. Thus, a tax return preparer

may determine that both of the 5-day breaks exceeded the 4-day limitation under federal law and subtract all 3 days of the per diem paid for each of the 5-day breaks from the total reimbursement amount that may be considered not taxable. Alternatively, a tax return preparer may subtract the 6 days and determine that only 104 days of the paid per diem is not taxable.

If a tax return preparer multiplies 104 legislative days by \$145 per day (using the higher federal per diem rate), the total would be \$15,080 that could be considered a non-taxable reimbursement for deemed living expenses. This amount is \$2,666.50 more in deemed living expenses than the \$12,413.50 that each legislator actually received. Thus, a tax return preparer may determine that the \$2,666.50 is an unreimbursed business expense that may be reported as a miscellaneous itemized deduction on a 1040 Schedule A. If the additional amount is claimed as a miscellaneous itemized deduction, then further reductions may be required for a meals allocation, in addition to other reductions. IRS Publication 529 contains additional information regarding miscellaneous deductions and is available for download at <a href="https://www.irs.gov">www.irs.gov</a>.

#### **Residency Election**

Under 26 U.S.C. 162(h), state legislators who live more than 50 miles from the Capitol may elect to claim their legislative district residence as their "tax home." These legislators signed a certification promising to make an election concerning their residence under 26 U.S.C. 162(h). Consequently, legislators who fall into this category should share this article with their tax return preparers or become familiar with the regulations and the manner in which they are to make the election. The U.S. Department of the Treasury has published regulations for making this election, which may be found under 26 CFR 1.162-24. The portion of the regulations regarding the residency election provides as follows:

- (e) Election (1) Time for making election. A tax-payer's election under section 162(h) must be made for each taxable year for which the election is to be in effect and must be made no later than the due date (including extensions) of the taxpayer's Federal income tax return for the taxable year.
- (2) Manner of making election. A taxpayer makes an election under section 162(h) by attaching a statement to the taxpayer's income tax return for the taxable year for which the election is made. The statement must include—
- (i) The taxpayer's name, address, and taxpayer identification number;

- (ii) A statement that the taxpayer is making an election under section 162(h); and
- (iii) Information establishing that the taxpayer is a state legislator entitled to make the election, for example, a statement identifying the taxpayer's state and legislative district and representing that the taxpayer's place of residence in the legislative district is not 50 or fewer miles from the state capitol building.

### Legislators Living Outside of Helena but Less than 50 Miles from the Capitol

Per diem payments to legislators who do not live in Helena but do live within 50 miles of the Capitol are not considered substantiated reimbursements. Thus, these payments are reported as income on the legislator's W-2 form, and taxes are withheld on these payments. However, all legislative lodging and meal expenses actually incurred by these legislators in excess of the per diem payments are considered unreimbursed expenses and may be reported as a "miscellaneous items" deduction, subject to certain limitations. IRS Publication 529 contains additional information regarding miscellaneous deductions and is available for download at <a href="https://www.irs.gov">www.irs.gov</a>.

#### Legislators Living in Helena

Because federal law (26 U.S.C. 274(d)) requires out-of-town travel before a person can claim lodging and meal expenses, a legislator who resides in Helena during the session may not claim any meal and lodging expenses incurred in Helena for session activities. Also, under 26 U.S.C. 162(h)(4), the special provisions allowing use of the federal per diem rate do not apply to per diem payments to these legislators, so the legislators must follow the provisions of 26 U.S.C. 274(d) and specifically substantiate all lodging and meal expenses that they do claim for out-of-town travel.

#### Per Diem Payments During the Interim

This article does not address legislative per diem payments that are made during the interim. Unlike during a legislative session, during the interim legislators are only paid expenses when a claim is submitted.

#### CFHHS Continues Studies, Seeks Legislative Member on Child Protective Commission

At its January meeting in Helena, the Children, Families, Health, and Human Services Interim Committee heard about guardianship standards, respite services for family caregivers, and the ways other states handle pay for performance in human services.

Committee members also decided to ask Gov. Bullock to add a legislator to a commission that he set up to review the state's child protective system. In addition, they decided not to renew an administrative rule objection they had lodged just days before their Jan. 11 meeting. By the time the committee met, the Department of Public Health and Human Services had changed the proposed rule to remove provisions at the heart of the objection.

#### SJR 22 — Guardianship and Alzheimer's Disease

For its Senate Joint Resolution 22 (2015) study of guardianship laws and Alzheimer's disease, the committee heard from a national speaker about standards for guardianship. A DPHHS official also talked about services that can keep people in their communities.

Erica Wood, assistant director of the American Bar Association's Commission on Law and Aging, discussed seven areas for improving guardianships for people who are unable to make decisions about their own care or finances. Those areas involve using less restrictive options, adding safeguards to the legal process for seeking guardianship, improving the way a person's capacity is assessed, using limited guardianship orders, setting standards for guardians, improving court monitoring of guardians, and creating public guardianship programs.

Kelly Williams, administrator of the DPHHS Senior and Long Term Care Division, provided data on the number of people using a Medicaid waiver that allows them to receive services in their homes or communities so they aren't placed in a nursing home or hospital. The state has funding for about 2,050 waiver slots in the current fiscal year.

Williams also discussed a federal grant that DPHHS is using to assess the need for respite services for family members who serve as caregivers. She said the department has set aside about \$25,000 in each year of the grant period to pay for respite services.

Based on the presentations, the committee asked to receive more information at its next meeting about what other states are doing to train guardians and to prevent conflicts of interests when guardians serve in multiple roles. Members also want to look at whether Montana's laws protect financial advisers who report suspected financial abuse by guardians.

#### HB 422 — Children's Mental Health Services

For the House Bill 422 (2015) study of children's mental health outcomes, the committee focused in January on how other states have tied outcomes to payment for services. The committee heard the following:

- Patricia Nygaard of the Minnesota Children's Mental Health Division outlined the assessments that providers must complete for a child at admission, during treatment, and at discharge.
- Susan Mitchell of the Tennessee Department of Children's Services reviewed how Tennessee makes incentive payments to providers who reduce the number of days children are in foster care, increases the number of permanent exits from the foster care system, and reduces the number of reentries into the system.
- Marty Nelson of the Wyoming Department of Family Services discussed the tiered payment system Wyoming has used to curb the costs of residential mental health treatment and free up money for community services.

HB 422 requires the committee to propose a pilot project for improving children's outcomes and using performance-based reimbursement for providers. However, members decided in January that the committee cannot adequately address this aspect of the bill's requirements in the short amount of time available. Members also agreed to focus future study efforts on outcomes related to whether children are in school, at home, and out of trouble.

#### **Child Protective Services**

The committee heard several reports related to the Child and Family Services Division because of recent activity and concerns in that area.

Will Soller of the Legislative Audit Division presented the results of a recent performance audit of the Child and Family Services Division. The audit recommended that the division handle child abuse and neglect reports in a more uniform manner, comply with statutory time frames, use data to manage its activities, clarify supervisory duties, and better document its decisions.

Child and Family Services Division Administrator Sarah Corbally said that the division agrees with most of the audit recommendations but has had trouble meeting statutory deadlines in part because of an increase in the number of child abuse and neglect cases combined with high staff turnover. The division has added 26 new social service technician positions to relieve pressure on caseworkers.

Ali Bovingdon, deputy chief of staff for Gov. Bullock, discussed the recent creation of the Protect Montana Kids Commission and the tasks the group is scheduled to complete by March 31. The commission is reviewing state laws on child abuse and also looking at workforce issues.

Child and Family Ombudsman Traci Shinabarger reported that her office, which is in the Department of Justice, received 194 requests for assistance between December 2014 and December 2015. Grandparents made the second-highest number of contacts with the office.

Cleve Loney, a former state legislator, outlined a number of concerns that family members have raised about the handling of cases. He also said that many people are unhappy with the way the Ombudsman Office has responded to complaints.

After hearing the reports, Sen. Eric Moore proposed that the committee adopt a resolution asking the governor to add a legislator to the Protect Montana Kids Commission. The resolution also says that the state's at-risk children would be best served if the executive and legislative branches worked together on changes to state law. The committee approved the resolution on a voice vote.

#### Medicaid Rule Objection

The committee discussed DPHHS rule changes contained in MAR Notice No. 37-728 and decided not to renew the committee's objection. Among other things, the rule changes reduced payments for durable medical equipment and incontinence supplies. Several suppliers opposed the reductions.

A majority of the committee members notified Chairman Ron Ehli (R-Hamilton) on Jan. 8 that they objected to the rule changes, and DPHHS was notified of the objection that day. The committee's objection put the rule on hold. However, under state law, an objection remains in effect only if a committee renews its objection at each subsequent meeting.

DPHHS Director Richard Opper told the committee on Jan. 11 that DPHHS had removed the proposed changes to the durable medical equipment and incontinence supplies reimbursements that had prompted the committee's objection. Because the committee did not renew its objection, the DPHHS may proceed to adopt the rules as modified.

#### **Agency Monitoring**

The committee also spent time hearing more about the new forensic mental health facility that DPHHS plans to open in Galen in February and about activity related to the closure of the Montana Developmental Center (MDC) in Boulder.

Opper told the committee that DPHHS has signed a contract with AWARE, Inc., to move 21 people out of the Boulder facility and into community services over the next seven months. Senate Bill 411 requires that MDC be closed by June 2017 and that most of the approximately 50 residents be moved out of the facility by the end of 2016. An Ohio-based provider, Benchmark Human Services, has indicated that it plans to build group homes for 20 of the MDC residents.

Committee members questioned Budget Director Dan Villa about the state's decision to lease a building in Galen to use as a new mental health facility for patients who are charged with or convicted of a crime and are also found to be mentally ill.

During the 2015 Legislature, the governor proposed adding 20 forensic beds to the Montana State Hospital in Warm Springs because of overcrowding in the forensic wing. However, lawmakers did not approve money to build the new beds.

Villa said that the executive branch decided to lease the Galen facility because of the overcrowding issue. He noted that legislators did approve \$4 million in fiscal year 2017 for staffing and operational costs related to the new beds. DPHHS will use those funds to run the Galen facility. Villa also noted that state law allows an agency to enter into leases of less than 20 years for buildings that are less than 40,000 square feet. The state is leasing the Galen facility for 19 years from Community, Counseling, and Correctional Services, Inc., of Butte.

#### **Next Meeting**

The committee will meet on Mar. 10-11 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: <a href="www.leg.mt.gov/cfhhs">www.leg.mt.gov/cfhhs</a>

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

#### Commission on Sentencing to Hear Analysis of Montana's Justice System

The Commission on Sentencing will reconvene in early March to continue its review of the state's criminal justice system with assistance from the Council of State Governments (CSG) Justice Center. The focus of the meeting will be on presentations from the CSG staff on their data analysis, statute review, observations from site visits, and comparisons of Montana's justice system to those in other states.

#### **Public Comment E-mail**

The commission has established an e-mail address to receive comments from the public about its work, including suggestions for future study or recommendations. The e-mail address is <a href="SentencingComments@mt.gov">SentencingComments@mt.gov</a>.

Comments sent to the e-mail account will be compiled and delivered to each commissioner and will become part of the commission's permanent public record. Written comments submitted to the commissioner via e-mail are considered a public record pursuant to Montana law and may be subject to public disclosure under the right-to-know provision of the Montana Constitution.

#### **Next Meeting**

The commission will meet on March 1-2 in Room 172 of the Capitol in Helena at a time to be determined. For more information on the commission's activities and upcoming meeting, visit the commission's website or contact Rachel Weiss, commission staff.

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

Commission Staff: <a href="mailto:rweiss@mt.gov">rweiss@mt.gov</a> or 406-444-5367

#### Insurance and Air Ambulances Top a Range of Topics on the Economic Affairs Agenda

Topics ranging from insurance to economic development to membership billing to next steps on the House Joint Resolution 29 (2015) study of air ambulances will keep the eightmember Economic Affairs Interim Committee busy at its next meeting.

Additionally, from among the agencies monitored by the committee, the following three agencies will be presenting information:

- The State Auditor's Office will provide an overview of its insurance and securities operations and discuss the termination of the Insure Montana program and the Montana Comprehensive Health Association health insurance plan.
- The Department of Agriculture will review its recent activities and include information on the Board of Hail Insurance.
- The Board of Livestock will continue to give updates on the financial status of the Department of Livestock. The new executive officer of the board, Mike Honeycutt, will be introduced, and the committee will take public comment on a proposed increase in an assessment on dairies and a new assessment for processors of cheese and other milk products.

Other topics on the agenda include a look at broadband in Montana, updates on various economic development programs, and reviews of workforce programs that involve coordination between the Department of Labor and Industry and the Montana University System.

#### **Next Meeting**

The committee will meet at 9:30 a.m. on Feb. 4 in Room 137 of the Capitol in Helena. The meeting will continue at 8 a.m. on Feb. 5. For more information on the committee's activities and upcoming meeting, visit the committee's website or contact Pat Murdo, committee staff.

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

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

### **Education and Local Government Committee Runs the Gamut**

A meeting that began with county road rights-of-way and ended with graduate medical education kept the members of the Education and Local Government Interim Committee occupied with work and discussions representative of the committee's broad spectrum of duties. Agenda items at the committee's January meeting, its third of the 2015-2016 interim, included continuation of the committee's three assigned interim studies and reports from representatives of the Montana State Library, the Office of Public Instruction, Montana University System researchers, the Office of the Commissioner of Higher Education, and medical education programs.

#### County Road Easements on State Trust Land

As requested by the committee in September and to advance the committee's understanding of the issues surrounding the Senate Joint Resolution 20 (2015) study of county road rights-of-way on state trust land, committee legal staff presented an analysis of the application of the U.S. Supreme Court's decision in *Lassen v. Arizona*, 385 U.S. 458 (1967), on historic rights-of-way in Montana, as well as an examination of fee simple value of an easement compared to full market value.

The analysis, which is posted in its entirety on the committee's website, concludes that the Montana Supreme Court's application of *Lassen* in its decision for *Montanans for the Responsible Use of the School Trust v. State of Montana*, 1999 MT 263, requires the state to acquire the full market value of a historic right-of-way from a county for a road right-of-way or easement across state trust land. The analysis also draws from several cases to conclude that the language in Montana's constitution and the state's Enabling Act referencing "any estate or interest therein" may indicate that a right-of-way or easement value is less than fee simple interest value.

The administrator of the Department of Natural Resources and Conservation's Trust Land Management Division told the committee that to help establish an awareness of the scope of the problem, his staff has been focusing efforts on identifying and estimating the value of county road segments that cross state trust land parcels in Missoula, Gallatin, and Flathead counties. He reported results for Gallatin and Missoula counties and said he would provide estimates for Flathead County by the committee's next meeting this spring.

### SJR 21 — Study of Local Fire and Emergency Services

One aspect of the Senate Joint Resolution 21 (2015) study that the committee had not yet fully examined was the role of

emergency medical services and the challenges those providers encounter. The committee learned in January that the challenges EMS providers face are similar to those encountered by volunteer fire departments. The supervisor of the EMS and Trauma Systems section of the Department of Public Health and Human Services reported on the EMS landscape in the state and highlighted four areas where EMS services are experiencing difficulty:

- Recruitment and retention of a largely volunteer workforce.
- Accessibility to training and the time and resource commitments involved in training.
- Competition for limited funding.
- Reimbursement that often fails to meet the cost of the services provided.

Committee members expressed interest in learning more about community paramedicine models in other states and the opportunities community paramedicine may provide in Montana.

Workers' compensation for volunteer firefighters is another facet of the SJR 21 study on which the committee chose to focus. In September, the Montana Fire Alliance presented the committee with a proposal for diverting a portion of the fire insurance premium tax revenue to a fund that would be used to offset some of the costs of providing coverage in fire departments with the most limited resources. Committee staff prepared a bill draft for the committee to review and discuss. Members requested additional information about the reasons for statutory changes to the disposition of the tax revenue and the estimated fiscal impacts of the legislation.

### HJR 26 — Study of Youth Concussion Protection Laws

Researchers with the University of Montana's Department of Health and Human Performance reported their findings and recommendations resulting from their analysis of how the Dylan Steigers Protection of Youth Athletes Act (20-7-1301 through 20-7-1304, MCA) has been implemented and their surveys of youth athletic program officials and participants. The committee considered a number of recommendations, some of which would require legislation to implement. The full report may be found on the committee's website.

#### **Land Information Grant Program**

The Montana State Library administers a Montana Land Information Act grant program, which is funded by a \$1 per page document recordation fee collected by counties. The state librarian, a state library commissioner, and the Teton County planner demonstrated how grant funds have been used for such projects as improvements of community street address systems, forest stewardship, and weed and floodplain

mapping. According to the report provided to the committee, in many of these projects local youth are learning to use GIS tools to help solve local problems and enhance public access to information. Revenue for the program has been shrinking because of fewer large documents being recorded in county offices. The committee asked the state librarian to return during a future meeting to describe proposals being considered to maintain program funding levels.

#### K-12 Education Monitoring

Committee members discussed with Office of Public Instruction representatives the results of the Smarter Balanced Assessments, problems with the administration of the assessments, the state's payments to the vendor that delivers the assessments, and OPI's plans for improving the assessment process in the future. OPI also reported on the activities of the negotiated rulemaking committees that are considering changes to arts and health curriculum content standards and presented a proposed template for the economic impact statement that the agency is now required to prepare for the committee's review when content standard revisions are pending.

OPI also delivered to the committee the 2015 Graduation and Dropout Report, highlighting the finding that the state's graduation rate has increased to 86 percent, up from a previous high of 85.4 percent.

#### **Additional Higher Education Topics**

Montana University System researchers were on hand to discuss three more projects made possible by the \$15 million in research funding allocated by the 2015 Legislature. In its work plan, the committee has included presentations from the researchers for all 11 projects that received funding as part of this initiative. In addition, staff from the Office of the Commissioner of Higher Education presented information on enrollment and performance funding. Presentations on graduate medical education and on WWAMI, a cooperative program of the University of Washington School of Medicine, rounded out the day's agenda. See the March issue of *The Interim* for more details on the higher education portion of the committee's agenda.

#### **Next Meeting**

The committee will meet on April 6-7 at 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 Leanne Kurtz, committee staff.

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

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

### **EQC Sends Letters on Sage Grouse and Yellowstone Bison**

In split decisions, the Environmental Quality Council voted in January to send letters objecting to the transplant of Montana sage grouse and to the governor's decision to designate year-round habitat for Yellowstone bison outside the national park's boundaries.

#### Sage Grouse

On Jan. 13, the council voted 10-5 to ask the Montana Fish and Wildlife Commission to impose a 3-year moratorium on the transplant or translocation of sage grouse from Montana to locations outside the state. Alberta Environment and Parks (AEP) has requested 40 adult female sage grouse from north-central Montana for spring 2016, with additional grouse requested biennially for a total of up to 120 birds over the next 5 years.

The council urged the FWC not to move forward with the proposal until more is known about the implementation of the Montana Sage Grouse Habitat Conservation Program, the program's efficacy, and its impact on Montana's sage grouse population trends.

The following day, the FWC approved AEP's request for the first 40 birds but said it would wait before considering subsequent transplants.

#### Yellowstone Bison

On Jan. 14, the council reviewed Gov. Bullock's decision to allow the presence of Yellowstone bison year-round in Montana in designated areas to the north and west of the national park. The council voted 8-7 to send a letter of objection to the Interagency Bison Management Plan partners, who must adopt the governor's plan before it can go into effect.

The council also reviewed hunting access programs, new game damage rules, and the use of shoulder seasons by the Department of Fish, Wildlife, and Parks. Further updates for each are expected at the council's May meeting.

#### Other Business

Facility conditions and prioritization of resources at Montana's state parks were also discussed. The council asked for additional information on state park revenue to be provided at its March meeting.

As part of its House Joint Resolution 13 (2015) study of federal land road management, the council examined harvest rates for elk and deer in relation to roads and inaccessible public lands. At its March meeting, the council will review a draft report and discuss possible findings and recommendations for the HJR 13 study, sponsored by Rep. Kerry White (R-Bozeman).

The council is also tracking legislation in Washington state that would impact that state's continued use of coal-fired generation from the Colstrip Generating Station. The council sent Sen. Jim Keane (D-Butte) and Sen. Rick Ripley (R-Wolf Creek) to Olympia to attend a Jan. 20 hearing on Washington's Senate Bill 6248.

#### **Next Meeting**

The council will meet on March 9-10 in Room 317 of the Capitol at a time to be determined. For more information on the council's activities and upcoming meeting, visit the council's website or contact Joe Kolman, council staff.

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

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

# 111d Subcommittee Learns More About Federally Required Carbon Emission Reductions

The 111d Subcommittee, formed by the Energy and Telecommunications Interim Committee and the Environmental Quality Council, learned more in January about the potential role of state legislatures in designing a plan to comply with new federal requirements to reduce carbon dioxide emissions in the power sector.

During the meeting, the subcommittee heard from national speakers about a federal Environmental Protection Agency rule that requires emissions reductions by 2030. Known as the EPA's Proposed Clean Power Plan or 111d regulations, the final rule was issued by the EPA on Aug. 3.

The final Clean Power Plan rule requires, in general, that Montana reduce carbon dioxide emissions in the power sector by about 32 percent below 2005 levels by 2030. States have until Sept. 6, 2016, to submit a final plan, or an initial plan with a request for an extension. Final complete state plans must be submitted to the EPA no later than September 2018. The final EPA rule, however, provides 15 years for full implementation of all emission reduction measures and establishes incremental steps for demonstrating progress.

Glen Andersen of the National Conference of State Legislatures provided the subcommittee with an overview of the Clean Power Plan and information about how other states are responding to the federal rules. Andersen discussed how states are assessing their reduction requirements and determining policy implications of the plan. He also provided information on federal timelines and the role of state legislatures in designing plans.

Thomas Lorenzen, a partner in Crowell & Moring's office in Washington, D.C., and a member of the firm's Environment

& Natural Resources group and Government Affairs group, offered the subcommittee a legal outlook on the rule. There are some questions about whether the EPA has overstepped its legal authority in its approach to the rule, and 26 states, including Montana, are challenging the rule in court. Lorenzen discussed why some states are challenging the rule and described some potential outcomes of the lawsuit.

Jordan Kislear, director of government affairs and analysis with the U.S. Department of Energy's Office of Clean Coal and Carbon Management, discussed technologies and potential approaches for continuing to use coal while still meeting the EPA's emission requirements.

Wendy Gerlitz, policy director for the NW Energy Coalition, discussed how states can include cost-effective energy efficiency programs and increased renewable energy generation in their compliance plans. Gerlitz leads the NW Energy Coalition's policy efforts in Oregon, Washington, Idaho, and Montana to promote clean energy on a regional level.

The subcommittee also received an update on Gov. Steve Bullock's Montana Clean Power Plan Advisory Council. The governor issued an executive order in November creating the advisory council to assist the DEQ as it submits information to the EPA for compliance with the federal rule. The advisory council, which includes 27 members, is expected to meet in February. Sen. Duane Ankney (R-Colstrip), Sen. Jim Keane (D-Butte), and Sen. Mike Phillips (D-Bozeman) were appointed to the advisory council.

#### **Next Meeting**

The subcommittee will meet on March 10 at a time and location to be determined. For more information on the subcommittee's activities and upcoming meeting, visit the subcommittee's website or contact Sonja Nowakowski, subcommittee staff.

Subcommittee Website: <a href="www.leg.mt.gov/css/Committees/">www.leg.mt.gov/css/Committees/</a> <a href="mailto:lnterim/2015-2016/EQC/111d-Subcom/">lnterim/2015-2016/EQC/111d-Subcom/</a> <a href="mailto:snowakowski@mt.gov">snowakowski@mt.gov</a> or 406-444-3078

## ETIC to Focus on Net Metering Cap and Other Incentives

At its January meeting, the Energy and Telecommunications Interim Committee agreed to shift the focus of its net metering study to a review of Montana's net metering capacity cap and related policy issues but decided not to examine ratesetting issues any further.

The committee is reviewing aspects of Montana's net metering law in accordance with Senate Joint Resolution 12 (2015). In Montana, renewable energy generation of less than

50 kilowatts is eligible for net metering on NorthWestern Energy's system. The net metering program of Montana-Dakota Utility (MDU) is governed by a tariff approved by the Montana Public Service Commission. The tariff provisions are similar to the provisions that NorthWestern Energy is subject to under Montana statute — for example, capacity is limited to 50 kilowatts.

Rural electric cooperatives, which are each governed by a board of trustees, establish their own parameters for net metering systems. In general, cooperatives allow net metering for customers with generators capable of producing up to 10 kilowatts.

The Montana Renewable Energy Association has supported raising the net metering cap to 1 megawatt within Montana's net metering law. According to the MREA, 37 states allow systems capable of generating 50 kilowatts or more, and 18 states allow customer generators capable of generating 1 megawatt or more.

Under Montana's current net metering policy, customers are credited at the full retail rate, with monthly bills netting the difference between how many kilowatt-hours were produced and how many were consumed. Committee members in January explored the rate design issue but indicated that they would support the Montana PSC's own examination of the rate design issue, which the PSC may do under its existing authority.

The PSC could focus its review on how owners and operators of net metering facilities on the NorthWestern and MDU systems could provide reasonable, cost-based compensation for the energy they use while also being fairly compensated for the energy they provide.

### Coal-Fired Generation and Legislation in Washington and Oregon

The committee also reviewed legislation that could affect the Colstrip Generating Station. The legislation has been introduced in the Washington Legislature and heard by the Washington Senate Energy, Environment and Telecommunications Committee. Legislation related to the coal-fired generating facility in Colstrip is also expected to be introduced in the Oregon Legislature in February. Committee members voted to send Sen. Duane Ankney (R-Colstrip) and Sen. Cliff Larsen (D-Missoula) to Olympia to testify on the Washington legislation. The Environmental Quality Council selected Sen. Jim Keane (D-Butte) and Sen. Rick Ripley (R-Wolf Creek) to participate in the Washington hearing.

The Washington Legislature started its 2016 session on Jan. 11. Washington Senate Bill 6248 and Washington House Bill 2525 were introduced as the Washington State Eligible Coal Unit Risk Mitigation Act. The act allows Puget Sound

Energy (PSE) to acquire a new interest in the Colstrip facility, which would allow PSE to exceed certain greenhouse gas emission performance standards in Washington. PSE would essentially be granted the ability to file plans with the Washington Utilities and Transportation Commission to buy out Talen Energy's share of Colstrip Unit 3, as long as efforts were simultaneously made to decommission other units, such as Units 1 and 2. The legislation directs PSE to file a plan in Washington on or before Dec. 31, 2017.

The four Montana senators selected by the ETIC and EQC testified before the Washington Senate Energy, Environment and Telecommunications Committee on Jan. 20. Video of the hearing, along with additional information on the legislation, is available on the Washington Legislature's website at <a href="http://app.leg.wa.gov/billinfo/summary.aspx?bill=6248&year=2015">http://app.leg.wa.gov/billinfo/summary.aspx?bill=6248&year=2015</a>.

Oregon's 2016 legislative session will begin on Feb. 1. In early January, a group of organizations — the Citizens' Utility Board of Oregon, Climate Solutions, NW Energy Coalition, Oregon Environmental Council, Oregon League of Conservation Voters, Natural Resources Defense Council, Pacific Power, Portland General Electric, Renewable Northwest, and the Sierra Club — announced agreement on a legislative proposal to transition Oregon away from coal-fired power generation.

Legislation based on the agreement is expected to be introduced in Oregon during the 2016 session. The draft legislation, supported by Portland General Electric (PGE) and Pacific Power, would double Oregon's renewable energy generation under the state's renewable portfolio standard to 50 percent. In addition, electricity provided to customers of Pacific Power and PGE would be coal-free by 2030, except for a small amount of coal-fired generation from PGE's ownership of Colstrip, which would be out of the Oregon mix by 2035.

#### **Next Meeting**

The committee will meet on March 11 at 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 Sonja Nowakowski, committee staff.

Committee Website: <a href="www.leg.mt.gov/etic">www.leg.mt.gov/etic</a>
Committee Staff: <a href="mailto:snowakowski@mt.gov">snowakowski@mt.gov</a> or 406-444-3078

#### **Judicial Redistricting Commission**

The Judicial Redistricting Commission will meet in early February to continue its study of whether Montana's district court boundaries should be revised. Commissioners will receive updated judicial workload information for 2015 as well

as information they requested at their September 2015 organizational meeting. The commission will also listen to public comment and discuss next steps in the House Bill 430 (2015) study. A review of the February meeting will be available in the March 2016 issue of *The Interim*.

#### **Next Meeting**

The commission will meet at 9 a.m. on Feb. 2 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 Rachel Weiss, commission staff.

Commission Website: <a href="https://www.leg.mt.gov/jrc">www.leg.mt.gov/jrc</a>

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

#### Law and Justice Committee to Learn About Sexual Assault Prevention, the Crime Lab, and Child Abuse Court Diversion

The Law and Justice Interim Committee will meet again in early March to continue its interim work. The members will receive updates from several agencies as well as presentations on several topics requested at its previous meeting in November. These topics include education and prevention measures being used in Montana to help prevent sexual assault and a review of the statutes that govern sexual assault crimes in Montana. Both topics are part of the committee's Senate Joint Resolution 24 (2015) study of sexual assault in Montana.

Also at the March meeting, the Department of Justice will update the committee on the Billings-area expansion of the state's crime lab and the recent history and reorganization of the Billings medical examiner's office. The judicial branch will provide an overview of several reports required by statute to be provided to the committee, including an update on the child abuse court diversion pilot project. In addition, committee members will listen to public comment and discuss next steps in the SJR 24 study.

#### **Next Meeting**

The committee will meet on March 8-9 in Room 102 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 Rachel Weiss, committee staff.

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

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

#### **Legislative Audit Committee to Receive 20 Audit Reports**

The Legislative Audit Committee in February will receive and review the following 20 audit reports on state agencies and programs and two follow-up reports:

#### Information Systems Audits

Montana Lottery Security (15DP-02)

#### Performance Audits

Montana University System Workforce Data Reporting (14P-05)

Protecting Montana Consumers (14P-08) Licensing Real Estate Professionals (15P-01)

#### Contract Audits

MUS Workers' Compensation (15C-04)
State of Montana Legislative Branch, Excluding Consumer
Counsel (15C-11)
State of Montana Legislative Branch, Consumer Counsel

State of Montana Legislative Branch, Consumer Counsel (15C-11)

#### Financial Compliance Audits

Montana Board of Investments (14-04B)

Montana State Fund (14-05B)

Public Employees' Retirement Board (14-08B)

Teachers' Retirement Board (14-09B)

Montana Guaranteed Student Loan Program (15-06)

Montana Board of Housing (15-07A)

University of Montana (15-10A)

Montana State University (15-11A)

Department of Labor and Industry (15-15)

Department of Fish, Wildlife, and Parks (15-18)

Office of Public Instruction (15-19)

Office of the Commissioner of Higher Education (15-20)

Montana State Lottery (15-30A)

#### Follow-Up Reports:

Block Management Program (16SP-01) Workers' Compensation Insurance Premium Review (15SP-10)

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 compliance, performance, and information system audits of state agencies and programs, including the Montana University System.

#### **Next Meeting**

The committee will meet at 9 a.m. on Feb. 2 in Room 172 of the Capitol in Helena. The meeting will continue at 8 a.m.

on Feb. 3. For more information on the committee's activities and its upcoming meeting, visit the Legislative Audit Division website or contact the Legislative Audit Division.

LAD Website: <a href="www.leg.mt.gov/audit">www.leg.mt.gov/audit</a> LAD Phone Number: 406-444-3122

### Legislative Council to Begin Planning for 2017 Session

At its February meeting, the Legislative Council will begin planning for the 2017 legislative session with a discussion of session orientation and caucuses. Work will also continue on the following topics:

- Legislator pay, including legislation from the 2015 session.
- Additional research on grants of rulemaking authority and separation of powers.
- TVMT options and proposals.
- Remote meeting possibilities.
- Proposed guidelines for legislator appointments and constituent services accounts.

#### **Next Meeting**

The council will meet at 9 a.m. on Feb. 9 in Room 102 of the Capitol in Helena. For more information on the council's activities and upcoming meeting, visit the council's website or contact Susan Byorth Fox, council staff.

Council Website: <a href="www.leg.mt.gov/legcouncil">www.leg.mt.gov/legcouncil</a> Council Staff: <a href="sfox@mt.gov">sfox@mt.gov</a> or 406-444-3066

# **School Funding Commission Rolls Up Its Sleeves**

The School Funding Interim Commission, established under Senate Bill 128 (2015), convened recently for the second time, holding a three-day meeting on Jan. 11-13 at the Capitol.

The commission consists of 16 members (12 legislators and 4 public members), with Sen. Tom Facey (D-Missoula) as presiding officer and Sen. Elsie Arntzen (R-Billings) as vice presiding officer. The commission's work is often referred to as "the decennial study" because it fulfills a statutory requirement that Montana's K-12 school funding formula be reviewed at least every 10 years. Commission members are tasked with reassessing the needs and costs related to the basic system of free, quality public elementary and secondary schools and, if necessary, recommending changes to the state's funding formula to the 65th Legislature.

At its first meeting, in September 2015, the commission determined to focus its efforts on four main areas of concern related to funding Montana's basic system of public schools: facilities, employee recruitment and retention, district structure and boundaries, and special education. During the January meeting, the commission explored these topics with informational work sessions followed by breakout sessions in which members of the commission visited informally with stakeholders and the public about these concerns and discussed ideas for addressing them.

#### **School Facilities**

Current state mechanisms for assisting districts with school facilities have received a lot of attention as part of the larger discussion of infrastructure investment around the state. The Quality Schools Facility Grant Program was not funded by the 2015 Legislature, and the commission was informed by the Legislative Fiscal Division at the January meeting that low revenue estimates for the state school facility and technology account mean that payments to schools this spring under the facility reimbursement program (also known as debt service GTB) will likely be reduced.

As the commission explores options for state assistance for school facilities, it will be looking at predictable funding mechanisms, reliable revenue sources, and ways to encourage districts to prioritize ongoing maintenance of infrastructure investments.

#### Recruitment and Retention

Much conversation has taken place both in Montana and across the nation about a shortage of teachers. At the January meeting, the commission was presented with research and other information on recruitment and retention of teachers, administrators, and other school staff, and it will be exploring ways to accomplish the following goals:

- Ensure that Montana's teacher pipeline is aligned with district needs, especially in critical shortage areas.
- Tap into the "reserve pool" of teachers who are licensed to teach but not currently in the classroom.
- Encourage effective induction programs (e.g., mentoring) for teachers and administrators in an effort to boost retention.
- Increase flexibility in teacher licensure.
- Reduce the variability in health benefit offerings and the financial strain, especially for small districts, by investigating such options as creating a statewide health benefit pool for school employees.
- Better target efforts to aid rural schools by finding a definition of the term "isolated" that works for Montana schools and school districts.

#### **District Structure and Boundaries**

Although the topic of voluntary consolidation or unification of Montana's 400 elementary, high school, and K-12 districts was discussed at the January meeting, the commission decided to examine the topic of district structure and boundaries through the lens of taxation and revenue equity.

#### **Special Education**

Regarding concerns about the funding of special education, the commission decided to examine the following areas:

- Adding the inflationary adjustment to the state special education component of districts' general fund budgets.
- Allowing 19-, 20-, and 21-year-old students receiving special education to be counted for ANB purposes and therefore receive state funding.
- Considering the funding mechanism for the special education co-ops that serve the majority of Montana's small rural school districts.

Also during the January meeting, the commission received public comment regarding the level of state funding for gifted and talented education, which is \$250,000 per year for the 2017 biennium, and will be exploring options for funding gifted and talented programs.

#### **Next Meeting**

The commission will meet on April 4-5 and again on May 4-6 at the Capitol in Helena at a time to be determined. The commission plans to hold its final meeting of the interim in early June. For more information on the commission's activities and upcoming meeting, visit the commission's website or contact Pad McCracken, commission staff.

Commission Website: <a href="www.leg.mt.gov/sfc">www.leg.mt.gov/sfc</a>
Commission Staff: <a href="padmccracken@mt.gov">padmccracken@mt.gov</a> or 406-444-3595

#### State Administration Committee to Examine New Hampshire Law on Health Information Ownership

The State Administration and Veterans' Affairs Interim Committee in February will dive into the legal theory and various models for likening personal information to property and establishing laws about personal information ownership. As part of this examination, which is guided by House Joint Resolution 21 (2015), the committee will hear from legal experts in New Hampshire about their state's law stating that medical information is the patient's property.

#### Poll on COPP Rules

Also on the agenda is final action by the full committee to document the results of a legislative poll on campaign finance

rules proposed by the Commissioner of Political Practices. The rules were adopted in November and became effective on Jan. 8. The committee was required to conduct the poll after 23 legislators submitted letters to the committee objecting to 16 of the proposed rules on the basis that they were contrary to legislative intent. The poll asked each legislator to vote on each of the 16 rules by indicating whether the legislator thought the rule was consistent with or contrary to legislative intent. The results of the poll were published with the rules in the Jan. 8 Montana Administrative Register and are also available in the January issue of *The Interim*, which provides additional information about the poll.

#### **Election Law Cleanup**

The committee will also hear in February about needed cleanup of certain election laws. Montana's local election laws were generally revised by House Bill 84 (2015). The lengthy bill streamlined and standardized administrative procedures on the conduct of local elections, especially for special purpose district elections. Among other changes, the bill moved most special purpose district elections from being held on the same day as primary or general elections, or on the same day as a special election, to being held on the same day as school elections. School elections are held on the first Tuesday after the first Monday in May each year.

Because of the complexity of election laws and the many overlapping provisions amended by HB 84, some statutes affected by the bill still need tweaking. The committee will likely develop a committee bill for the 2017 session encompassing the needed cleanup.

#### **Agency Oversight**

As part of its agency monitoring duties, the committee will hear from the Department of Administration about the Employee Incentive Program report and the 9-1-1 Advisory Council. Each interim committee was charged under House Bill 142 (2011) to examine the statutes providing for reports to the Legislature and establishing advisory councils to determine whether they are still of value or could be repealed.

#### **Next Meeting**

The committee will meet at 9 a.m. on Feb. 10 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 Sheri Scurr, committee staff.

Committee Website: <a href="www.leg.mt.gov/sava">www.leg.mt.gov/sava</a>
Committee Staff: <a href="sscurr@mt.gov">sscurr@mt.gov</a> or 406-444-3596

## **Spring Meeting Dates Set for State-Tribal Relations Committee**

The State-Tribal Relations Interim Committee will continue its work as the Legislature's liaison to tribal governments with visits to the Fort Peck and Rocky Boy reservations in March.

While at the reservations, committee members will meet with the Fort Peck Tribal Executive Board and the Chippewa Cree Business Committee of the Rocky Boy Reservation. The purpose of the joint sessions is to learn about and discuss issues of mutual concern and those particularly important to the tribes.

The committee will also meet with representatives of the Rocky Mountain Tribal Leaders Council to learn about the council's priorities and initiatives.

At the March meeting, committee members will also receive updates on topics included in the committee's work plan and hear more about the state's implementation of the federal Indian Child Welfare Act, including the perspectives of a judge and a county attorney. Members will also receive updates on suicide prevention, protections for cultural patrimony, language immersion and preservation programs, and status and funding details for rehabilitation of the St. Mary Diversion Dam and Canal Headworks project.

#### **Next Meetings**

In March, the council will meet as follows:

March 22, Fort Peck Community College auditorium, Poplar Approximately 9 a.m. to 5 p.m.

March 23, Northern Winz Casino, Box Elder Approximately 1 to 5 p.m.

March 24, Northern Winz Casino, Box Elder Approximately 8 a.m. to noon

For more information about the committee's activities and upcoming meetings, please visit the committee's website or contact Hope Stockwell, committee staff.

Committee Website: <a href="www.leg.mt.gov/tribal">www.leg.mt.gov/tribal</a>
Committee Staff: <a href="https://hstockwell@mt.gov">hstockwell@mt.gov</a> or 406-444-9280

#### Task Force on State Public Defender Operations Examining a Range of Topics

At its next meeting in February, the Task Force on State Public Defender Operations will continue its examination of the operations of the Office of the State Public Defender as directed under House Bill 627 (2015). The meeting will cover such topics as federal public defenders, information about other states' public defender offices, legal distinctions between attorney-employees and independent attorney-contractors, and options for reducing the number of crimes for which jail time may be imposed. Each topic area bears on the operations

of the OPD, prosecutors, and the judiciary.

Also at the February meeting, OPD staff will continue to present information to the task force about employees, contractors, caseloads, efficiency measures, and options for improving OPD operations.

The task force is also seeking additional suggestions from stakeholders involved with the OPD and will continue to examine suggestions received to date. Task force members may also narrow the scope of the members' interest areas in anticipation of making recommendations and formulating draft legislation.

#### **Next Meeting**

The task force will meet at 8:30 a.m. on Feb. 1 in Room 137 of the Capitol in Helena. For more information on the task force's activities and upcoming meeting, visit the task force's website or contact Dave Bohyer, task force staff.

Task Force Website: <a href="www.leg.mt.gov/tfspdo">www.leg.mt.gov/tfspdo</a>
Task Force Staff: <a href="dbohyer@mt.gov">dbohyer@mt.gov</a> or 406-444-3592

### Water Policy Committee to Hear Bozeman Water Needs

In March, the Water Policy Interim Committee will examine how the city of Bozeman is planning for its future water supply. Committee members requested information about Bozeman's future water supply following testimony at the committee's January meeting from private and public officials involved in a proposed water mitigation bank in the west Gallatin Valley. That mitigation bank could fuel new growth in the valley.

At its January meeting, the committee also agreed to scrutinize issues related to aging water infrastructure and storage around Montana and to narrow its examination of the future of the Water Court to the following concerns:

- The lag in water right ownership updates to a state database.
- Options for appeals to water right decisions made by the Department of Natural Resources and Conservation.
- The role of water commissioners in enforcement.
- "Living decrees," which are intended to accurately reflect all water rights along a disputed waterway.

The committee also continued its Senate Joint Resolution 2 study of state assumption of federal section 404 permits, which are required by the federal Clean Water Act. A U.S. Environmental Protection Agency administrator and two state officials from Alaska and Oregon discussed the admin-

istrative and practical challenges of assuming the federal permits, also known as dredge-and-fill permits. Two states, Michigan and New Jersey, have assumed the permitting program from the EPA, although many other states have tried. The committee will hone in on costs and other jurisdictional questions at its March meeting.

#### **Next Meeting**

The committee will meet on March 7-8 at 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 Jason Mohr, committee staff.

Committee Website: <a href="www.leg.mt.gov/water">www.leg.mt.gov/water</a>

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

### The Back Page

#### Bringing Legislative IT Systems into the 21st Century: Session Systems Replacement or LAWS II

#### by Susan Byorth Fox, Executive Director Montana Legislative Services Division

These are exciting times in the legislative branch's information technology world. For the past 16 months, we have been engaged in a major effort to bring the Legislative Automated Workflow System, commonly known as LAWS, and related information technology systems into the 21st century. This endeavor is called Session Systems Replacement (SSR) or LAWS II.

The mainframe-based LAWS system was first developed in 1995 and has served us well for 20 years. However, mainframe programmers are difficult to find these days, and technological advances can bring new functionality.

#### **Project Scope**

The SSR project was authorized by the 2013 Legislature in House Bill 10, the long-range information technology bill. The Legislature appropriated \$6.1 million to the Legislative Services Division for the entire project, a major component of which is being handled through contracts with experts in the field. The project encompasses the following areas:

- Migration of the Montana Code Annotated (MCA) database from a mainframe environment to a new XML environment.
- Codification (making laws into statutes) and annotations (providing legal notes and case histories for the code sections).
- Publication of the MCA and related documents in various formats
- Drafting, engrossing, and enrolling of bills and amendments.
- Chamber activities during sessions, such as daily journals, floor agendas, and committee minutes.
- Legislator access to online information regarding these processes.
- Public access to bill status reports, the MCA, and other session information.



#### **First Priority**

The foremost goal of the SSR project is to move our session systems to a stable IT environment based on modern technology. This will not result in changes that are highly visible to end users. For end users, including legislators, staff, and the general public, the new system will continue to provide the same information available today but will also eventually offer additional features and functions. The move requires focused attention in many areas, including databases, hardware, software, security, interfaces to existing databases and the website, and online and mobile presence and services.

#### Contracting

The SSR project began with contracting for project management to lead us through the procurement process and the development of a request for proposal (RFP). To develop an RFP, legislative staff visited other state legislatures to learn about their recent experiences in upgrading their technologies.

We received two proposals in response to our RFP. After a thorough vetting by Legislative Services IT staff and subject matter experts from House and Senate session staff and permanent legislative staff, the successful contractor was Propylon, Inc., headquartered in Dublin, Ireland. Propylon has extensive experience with mainframe migrations and legislative processes in other state legislatures and foreign countries and has proven to be a worthy partner in this endeavor.

#### **Analyzing Current and Future Processes**

Various legislative staff were identified as subject matter experts in IT, bill drafting, codification, engrossing, enrolling, and chamber operations during legislative sessions so we could conduct a thorough "as-is" analysis on all of these processes. The process was very labor intensive at times, and our staff was impressed with and appreciated the level of detail and amount of information generated by the analysis. We have all learned much more about other parts of the legislative process and where different parts of the process overlap, which has enabled us to identify those areas that need close integration and coordination.

The next step is describing the "to-be" processes, which will help the technical and programming staff build a new system to suit our unique needs. This "to-be" analysis has been completed on many systems, and the "to-be" analysis for chamber-specific session processes and bill and amendment drafting will be accomplished before the 2017 session begins.

#### A Two-Phase Project

The SSR project is being done in two main phases. The first phase is to accomplish the following steps:

- Migrate the MCA database to an XML database (almost complete).
- Prepare the 2015 annotations (in progress).
- Start testing some features so that we are ready for the 2017 session.

Bill drafting and some chamber operations, such as the daily journal and committee minutes, will wait because of the branch's use of WordPerfect and, more importantly, of the PerfectScript programming language, which is in use for more than 200 process-specific macros. Changes in this area will require more analysis than time allows before the 2017 session. WordPerfect, long the legal standard, is still used by many states as well as by the federal judiciary. Finding an alternative that provides more functionality is difficult, and the goal is to set us up well for the future, not just make a lateral change for change's sake.

The second phase will begin after the 2017 session, when the new system will be used for the 2017 MCA update and for session publications. Other functions, including bill drafting and chamber session features, will be added in time for the 2019 session.

#### An Integrated Team Effort

More than 50 people from the House, the Senate, the Legislative Services and Legislative Fiscal divisions, and Propylon have worked as a team on this project to date. We have even brought back some retired legislative staff to benefit from their valuable expertise. As certain milestones are reached, the appropriate subject matter and IT experts are being brought on board to keep the project rolling. The IT staff has been conducting daily stand-up meetings with Propylon staff in Ireland, and a steering committee meets once a month to receive updates.

#### **Informational Briefings and Legislator Input**

As executive director of the Legislative Services Division and executive sponsor of the project, I have participated in many of the workshops and I receive regular briefings, which I in turn provide to the Legislative Council. Our goal is to also hold quarterly town hall meetings for all of the legislative staff to hear about the progress. As in any project, change management and setting expectations are important because the SSR project will eventually affect all of us who conduct, work in, or watch the legislative process.

As mentioned earlier, the initial products from this project will not be visible to most people, as the improvements are building the foundation for the future systems. For the 2017 session, the bill processes will look very similar to the current processes, but the underlying structures will be modernized and will provide a stronger, more supportable foundation. Certain features will also be added to assist staff workflow. By the 2019 session, improved chamber features, improved bill requesting and drafting, and a greater ability for legislators to manage their legislative work electronically will be available.

In the meantime, we will be working with the Legislative Council to develop a plan to gather legislator input not only on "as-is" use of the existing LAWS system and other legislative processes but also on legislators' needs and desires for the future.

*Note:* The winter 2016 issue of the National Association of Legislative Information Technology (NALIT) newsletter features a profile of Montana's Office of Information Technology. The article, by our own Dale Gow, chief information officer of the Montana Legislature, may be accessed from the NALIT web page or by searching "National Association of Legislative Information Technology" at www.ncsl.org.