



Newsletter

In This Issue

Children, Families, Health, and Human Services Committee	1
Economic Affairs Committee	3
Education and Local Government Committee	4
Energy and Telecommunications Committee	5
Environmental Quality Council	6
Legislative Council	7
Legislative Finance Committee	7
Revenue and Transportation Committee	9
Water Policy Committee	10
The Back Page: Employee Group Benefit Plans	11

Children and Families Committee Targets Action on Guardianship, Alzheimer's Disease

At its March meeting in Helena, the Children, Families, Health, and Human Services Interim Committee agreed to consider draft legislation on several topics related to its study of guardianship and Alzheimer's disease. Committee members also received information on tracking children's mental health outcomes and heard updates on legislative mental health investments, Medicaid expansion, and the closure of the Montana Developmental Center in Boulder.

As a follow-up to earlier presentations on the state's child protective services, the committee also asked for more information on how other states handle the removal of children from their homes when an immediate threat to their health or safety exists. Time will be scheduled during the committee's meeting in May to discuss options for changing Montana's process for handling these emergency removals.

SJR 22: Guardianship/Alzheimer's Disease

On its Senate Joint Resolution 22 (2015) study, the committee heard from several speakers before deciding on topics for bill drafts. The topics ranged from setting standards for guardians to increasing options for community placements for people with Alzheimer's disease or other dementias.

Members of the Montana Alzheimer's/Dementia Work Group, which has been working on an Alzheimer's state plan, presented their recommendations for committee action. They said the state needs an employee dedicated to ensuring a coordinated approach to planning for and providing services. They also proposed increasing community-based placement options for patients. Dr. Pat Coon of Billings Clinic said many Alzheimer's patients end up in the Montana State Hospital, where they are inappropriately mixed with younger people suffering from mental illness. Claudia Clifford of AARP Montana suggested that the state increase the number of slots available for home- and community-based services, review the Medicaid reimbursement rate for assisted living facilities and nursing homes, and explore the creation of smaller facilities.

Speakers from Ohio and Washington discussed how their states developed training and certification standards for people who serve as

guardians. They also talked about the interdisciplinary groups that have worked on standards for guardians and for court monitoring of guardianship activities.

Terry Hammond of the National Guardianship Association (NGA) said the standards developed by that group can help guardians sort through the complicated issues they face and help courts determine whether guardians are acting in the best interests of the person they have been appointed to assist. He presented two scenarios to illustrate how the standards work in practice.

Jesse Laslovich, chief legal counsel for the State Auditor's Office, presented model legislation from the North American Securities Administrators Association, which adopted the model law in January to spell out ways that vulnerable adults can be protected from financial exploitation, including exploitation by people who have been appointed as their guardians.

Based on the information received to date, the committee asked staff to draft bills to do the following:

- Implement the model legislation related to financial exploitation.
- Implement NGA guardianship standards.
- Establish an interdisciplinary working group on guardianship.
- Carry out the Montana Alzheimer's/Dementia Work Group's proposals for a state facilitator, more community-based placement options, more funding for respite services, and services and supports for people who aren't eligible for Medicaid.

Committee members said they expect to refine the bill drafts during the committee's May and June meetings as they receive more information on potential costs and hear public comment on the ideas.

HB 422: Children's Mental Health Outcomes

House Bill 422 (2015) requires the committee to propose a pilot project to improve and track children's mental health outcomes. In March, the committee heard a proposal from providers about activities that could be measured to see if children are meeting outcomes related to whether they are in school or at home and out of trouble.

Jani McCall of the Legacy Provider Group and Jeff Folsom of AWARE Inc. said the committee could consider requiring the Department of Public Health and Human Services to collect specific data related to a child's living situation, school success, and juvenile justice involvement. At the same time, providers should report on the treatment approaches that they're using and the steps they have taken to work with multiple agencies in setting up services for a child.

McCall and Folsom suggested the following three options for which children to target in the data collection effort:

- A representative sample of children who have been in foster care for more than a year and are receiving community mental health services.
- A representative sample of children diagnosed with serious emotional disturbance (SED) who are receiving community mental health services.
- All children with an SED diagnosis who are receiving community services.

McCall and Folsom also said that until the state has baseline data, it will be difficult to know what practices work best or what policies should be changed to improve outcomes. Zoe Barnard of the DPHHS Children's Mental Health Bureau agreed that baseline data is needed but said DPHHS does not have a system in place to collect or analyze some of the information outlined by the providers.

Bob Peake, director of Youth Court Services for the Court Administrator's Office, told the committee about the system the court uses to track whether youth are committing new offenses after leaving treatment or detention. He said the office built the case management system in 2005 specifically to look at performance measures and decided that recidivism was the most important outcome to measure.

Committee members asked for more information in May about the types of state data systems that currently exist and whether the systems could be modified to collect the information suggested by the speakers.

SB 418: Legislative Mental Health Investments

Senate Bill 418 (2015) requires the committee to monitor and evaluate how DPHHS is implementing nearly \$19 million in new money that the 2015 Legislature appropriated for mental health services.

Glenda Oldenburg of the DPHHS Addictive and Mental Disorders Division reported on how the money has been spent to date and on the number of people served by some of the new programs and funds. John Glueckert, administrator for the Montana State Hospital, gave an overview of the number of MSH patients who were readmitted to the facility in 2015 within one year of their discharge. He also discussed the reasons the patients returned and what the hospital has done to work more closely with community mental health providers in planning for a patient's discharge.

A panel of community providers discussed the ways in which they have used the new money and talked about their experiences working with DPHHS in establishing services. SB 418 requires the committee to determine, among other things,

whether DPHHS is working collaboratively with community providers to increase State Hospital discharges and whether the agency is reimbursing for effective prevention and treatment in the community.

The panelists generally praised the department's efforts and said the funding has improved the community response to people with mental illness in many parts of the state. But they also noted that certain factors have made it difficult to establish or maintain community services. Those factors include a lack of psychiatrists and other mental health professionals, high operating costs for secure detention beds, and problems in ensuring that people continue taking their medications when they return to the community.

The committee asked to receive more information in May about the costs of secure detention beds. Committee members will also examine how to increase community capacity for prescribing psychiatric medications, including using clinical pharmacists as part of the treatment team.

Other Topics

The committee also received the following information:

- A presentation by Casey Brock of Glendive and by Terri Anderson of Hamilton on a proposed Pain Patients' Bill of Rights. Brock and Anderson said the bill of rights is necessary because a backlash against opioid prescribing has limited access to treatment for patients with chronic pain.
- An update from Dr. Eric Arzubi of Billings Clinic on efforts to create a Montana training track for psychiatric medical students, including the proposed costs of the program.
- A legislative staff report on the recent Montana Supreme Court decision upholding all but one of the provisions of the medical marijuana law passed by the 2011 Legislature.
- A legislative staff report on the placement of Montana Developmental Center residents in community facilities and the decision by the MDC Transition Planning Committee to ask the executive branch to develop options for how to close the facility within the timeframe outlined in Senate Bill 411 (2015).
- A legislative staff update on the Medicaid expansion authorized by Senate Bill 405 (2015). According to DPHHS, 36,320 people had enrolled in the expansion as of March 1, 2016. Meanwhile, the Department of Labor and Industry data showed that by March 7, a total of 178 of those enrollees had completed the initial assessment offered as part of the workforce development options outlined in SB 405.

Next Meeting

The committee will meet on May 9 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

Economic Affairs Committee to Hear Options on Licensing Boards' Authority

At its April meeting, the Economic Affairs Interim Committee will focus on a 2015 U.S. Supreme Court decision regarding licensing boards and their potential to limit competition. In addition, the committee will hear more about broadband, the activities of a working group studying air ambulance and insurance concerns, and the budget of the Department of Livestock.

U.S. Supreme Court Decision on Licensing Boards

The North Carolina State Board of Dental Examiners v. the Federal Trade Commission decision (135 S. Ct. 1101) involved whether the dental board, acting as a state agency, was protected from the FTC's antitrust complaint under the state-action immunity doctrine. Writing for the majority, Justice Anthony Kennedy said that "active market participants cannot be allowed to regulate their own markets free from antitrust accountability." A decision summary said, in part:

Because a controlling number of the Board's decisionmakers are active market participants in the occupation the Board regulates, the Board can invoke state-action antitrust immunity only if it was subject to active supervision by the State, and here that requirement is not met. . . . When a State empowers a group of active market participants to decide who can participate in its market, and on what terms, the need for supervision is manifest.

In view of Montana's statute that administratively attaches licensing boards to a department but says they are not subject to the approval or control of that department (2-15-121, MCA), the committee members will hear from the following:

- A Federal Trade Commission attorney regarding guidance on active supervision developed for licensing boards.
- The chief legal counsel for the Department of Labor and Industry, which oversees Montana's licensing boards, regarding what measures that department is taking or plans to take regarding the Supreme Court decision.

- A regulator with the Department of Licensing in Washington state, who will describe that state's approach to regulatory and advisory boards for licensed professions.

Other board-related discussions will include a look at various licensing board funding options allowed by the 2015 Legislature. These are part of the Senate Bill 390 (2015) study of licensing board costs.

The one-day meeting will also include agenda items on the following topics:

- The use of wireless networks as a supplement to broadband connectivity.
- An update on the air ambulance study, House Joint Resolution 29 (2015), under which the State Auditor's Office met on March 18 with a working group on air ambulance billing and insurance concerns. That group's second meeting is set for April 7 in the Capitol in Helena.
- Reviews related to the Department of Livestock's budget development in light of the 2015 Legislature's "one time only" budgeting for many of its ongoing programs. The reviews will also include information on milk assessment proposals.
- A city of Helena proposal to sell to the Montana State Fund for roughly \$7.7 million the parking garage adjacent to the Montana State Fund building. The State Fund currently leases most of the spaces in the garage for its employees.

Next Meeting

The committee will meet at 8:30 a.m. on April 14 in Room 137 of the Capitol in Helena. For more information on the committee's activities, 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

Soup to Nuts for Education and Local Government Committee

The Education and Local Government Interim Committee has a full agenda for its April meeting. Interim studies, disposal of county property, community colleges, career and technical education, Montana University System research projects, charter school applications, and new K-12 curriculum content standards comprise the agenda.

Interim Studies

The committee will take stock of information it has received so far on the studies it is conducting on local fire and

emergency services, county road easements on state trust land, and youth concussion laws. With detailed descriptions of the issues that prompted each of the studies having been provided during the previous three meetings, members can begin sorting through potential solutions and discussing which, if any, they may be interested in pursuing.

Local Government Operations

One of the committee's statutory duties is to act as the Legislature's liaison with local governments and consider changes to statutes that may be interfering with efficient local government operations. A number of counties have encountered problems with the statutes that govern disposal of county property. A county representative will describe those problems and offer ideas to clarify the law.

Higher Education and Secondary School Career Education

The presidents of Montana's three community colleges are scheduled to discuss their institutions' enrollment, programs, and plans for the future, after which the committee will discuss career and technical education in secondary schools with representatives of the Office of Public Instruction and Billings Public Schools. Two private-sector programs that bring career education to secondary school students will be featured as part of this discussion: ProStart, a National Restaurant Association initiative to introduce restaurant and food service career opportunities to high school students, and Montana Automotive Technologies, a Missoula-based program to provide hands-on automotive vocational training to interested students.

Staff from the Office of the Commissioner of Higher Education plan to present information on dual enrollment, including eligibility, opportunities for rural students, requirements for instructors, and statistics on completion. OCHE staff will also report on the Big Sky Pathways program, a partnership between OCHE and the Office of Public Instruction that focuses on preparing secondary school students for postsecondary education and careers.

Each committee meeting has featured Montana University System researchers describing their projects funded by grants from a \$15 million appropriation to the university system by the 2015 Legislature. Researchers from Montana State University-Bozeman will update the committee on three projects involving mental health, inflammatory and infectious disorders, and energy technology.

Charter Schools

The superintendents of Libby, Troy, and Bozeman public schools will discuss their charter school applications to the Board of Public Education, the process in which they

are engaging, and why they are seeking charter school designation.

K-12 Curriculum and OPI Reports

Proposed K-12 curriculum content standards for arts and health enhancement and the economic impact statements associated with those standards are among the items the Office of Public Instruction plans to bring to the meeting. The proposed standards are the result of negotiated rulemaking committee processes now required under 20-7-101, MCA. OPI also plans to report on negotiated rulemaking for oil and gas revenue allocation and to update the committee on student assessments.

Next Meeting

The committee will meet at 8:30 a.m. on April 6 in Room 172 of the Capitol in Helena. The meeting will continue at 8 a.m. on April 7. 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: lekurtz@mt.gov or 406-444-3593

ETIC Moving Forward on 9-1-1 Updates and Net Metering Study

At its March meeting, the Energy and Telecommunications Interim Committee requested a series of bill drafts to update Montana's 9-1-1 laws and direct money toward next-generation 9-1-1 (NG911). The committee also continued work on its net metering study.

Next-Generation 9-1-1 Study

The committee is studying NG911 under guidelines set forth in House Joint Resolution 7 (2015). Previously, committee members asked stakeholders to work together to develop recommendations on how to update Montana's 9-1-1 laws and use NG911 to enhance public safety in Montana. In March, stakeholders, including the governor's advisory council, provided their recommendations.

The committee incorporated those recommendations into several bill draft requests on the following topics:

- Jurisdiction – the division of responsibilities between state and local governments.
- Governance – engaging state and local stakeholders in future program management.
- Technology – maintaining current 9-1-1 systems and supporting deployment of NG911.

The stakeholders continue to work on recommendations to update the overall funding mechanism and distribution method used for 9-1-1 in Montana.

In Montana, there are three 9-1-1 funds: a basic fund, an enhanced fund, and the wireless enhanced fund. Money from all three accounts is distributed to a variety of entities, including cities, counties, 9-1-1 jurisdictions, telephone providers, and wireless providers. For wireless enhanced 9-1-1 services, each wireless subscriber in the state pays a fee of 50 cents a month. Half of that amount, or 25 cents, is available to wireless providers for certain costs. The other 25 cents goes to 9-1-1 jurisdictions, also referred to as public safety access points, or PSAPs.

The committee has tracked the use of 9-1-1 funds and specifically the wireless enhanced fund directed to wireless providers. Of the money in that account, 84 percent is allocated on a per capita basis to wireless providers of enhanced 9-1-1 in each county. The balance is allocated evenly to the wireless providers of enhanced 9-1-1 in counties with 1 percent or less of the state's total population. However, not all providers have requested money from the account for reimbursements. Because the fund is not fully utilized, about \$10 million is "stranded" in the 9-1-1 fund that could be used by other 9-1-1 entities or wireless providers.

In terms of advancing NG911, there was consensus among the committee members to use a portion of the "stranded funds" to pay for initial infrastructure and capital upgrades to enable compliance with baseline NG911 deployment. To move forward from there, stakeholders recommended establishing a statewide ESInet (statewide IP network backbone) and upgrading or replacing existing selective routers with IP routers. About 80 percent of the PSAPs in Montana have an IP network backbone. However, this does not represent 80 percent of the people in Montana. CenturyLink's 15 "legacy" PSAPs in Montana represent about 60 percent of the state's population. Stakeholders estimate it will cost about \$5 million to upgrade all non-IP-capable PSAPs in Montana.

To prepare for the NG911 transition, Montana also will need to first work with individual counties to assess the current use of GIS data and determine what data assessments, or layers, are currently being used for 9-1-1. Additionally, NG911 stakeholders recommended an assessment of GIS adoption and operations in Montana counties. The estimated cost of the assessment is about \$80,000. The results would be used to assist policymakers in deciding how best to proceed with standardization.

Committee members agreed that the \$5 million and \$80,000 should come from the "stranded funds" and be incorporated into a bill draft. However, members encouraged stakeholders

to continue working on a solution to the larger funding issue for 9-1-1 programs in Montana and the elimination of future “stranded funds”.

Net Metering Study

The committee continued to review aspects of Montana’s net metering law in accordance with Senate Joint Resolution 12 (2015). Members discussed all of the information received to date, including information gathered from stakeholders about the costs and benefits of net metering in Montana, various rate design methodologies, economic development impacts, and safety and stability issues related to distributed generation.

Members continue to work on their findings and recommendations for the study. At the March meeting, members agreed that rural electric cooperatives should not be subject to Montana’s net metering laws. Montana’s net metering statutes codified in Title 69, chapter 8, part 6, apply only to NorthWestern Energy. Rural electric cooperatives are explicitly exempt from the statutory requirements. Rural electric cooperatives are governed by their own boards of trustees, which establish parameters for their net metering systems. Members agreed that cooperatives should continue to oversee their individual net metering programs.

The committee also agreed that current tax credits and deductions, as well as other incentives such as loan programs, did not require further review or analysis.

Next Meeting

The committee will meet on May 12-13 in Kalispell at a time and specific location 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: www.leg.mt.gov/etic

Committee Staff: snowakowski@mt.gov or 406-444-3078

EQC Debates Federal Roads, Agency Enforcement Reports

In March, the Environmental Quality Council began debating possible findings for its study on federal roads, inaccessible public lands, and big game management and reviewed the first draft of its final report. The council also received reports about agency enforcement efforts and the Montana Sage Grouse Habitat Conservation Program.

HJR 13: Study of Roads, Land, and Big Game

House Joint Resolution 13 (2015), sponsored by Rep. Kerry White (R-Bozeman), tasked EQC with assessing road closures on federal lands over the past 35 years, identifying landlocked

parcels of public land, and evaluating deer and elk harvest trends in relation to limited access to federal lands. At the March meeting, legislative staff presented a requested first draft report on the council’s HJR 13 study activities, and council members began discussing findings and recommendations to include in the report. Proposed findings and recommendations will be reviewed in May. Public comment will also be taken and reviewed as the council continues to work on its findings and recommendations through June and July.

Agency Reports and Program Evaluations

Also at the March meeting, the departments of Environmental Quality, Natural Resources and Conservation, and Agriculture presented their biennial environmental compliance and enforcement reports. The law requires the agencies to summarize activities to promote compliance, describe the regulated community for specific programs and estimate what percentage is in compliance, and detail noncompliant actions.

As part of the council’s oversight of DEQ, DNRC, and the Department of Fish, Wildlife, and Parks, the council is evaluating specific programs within each agency. Programs on the March agenda were habitat management in FWP’s Wildlife Division and forest management in DNRC’s Trust Land Management Division.

Sage Grouse

The manager of the state’s Sage Grouse Habitat Conservation Program provided an update on work to implement the Montana sage grouse conservation strategy. The strategy includes stipulations for new development in sage grouse habitat and a competitive grant program for conservation measures. The Montana Sage Grouse Oversight Team voted in February to open its first call for grant applications and expects to review the applications at its May 24 meeting.

Grizzly Bears

EQC members also heard an overview on the proposed delisting of the Yellowstone-area grizzly bear from the federal list of endangered and threatened species. Matt Hogan, deputy regional director of the U.S. Fish and Wildlife Service, and Jeff Hagener, director of Montana’s FWP, explained the delisting process, which could take several months, and the financial responsibilities of the FWP for managing a delisted population. The grizzly was listed as a threatened species in 1975.

Next Meeting

The council will meet on May 4-5 in Room 317 of the Capitol in Helena 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: 406-444-3747 or jkolman@mt.gov

Legislative Council Sets Pre-session Calendar, Requests Input on Rules

Session Planning: Save the Dates!

At its February meeting, the Legislative Council set the following dates for 2017 legislative session preparation activities:

- Caucus: Nov. 16, 2016 (morning).
- Training and orientation: Nov. 16 (afternoon) through Nov. 18, 2016.
- Rules committees: Dec. 7, 2016 (morning).
- Presiding officer training: Dec. 7, 2016 (afternoon).
- Budget training, 2019 Biennium Budget review, and other topics: Dec. 8, 2016.

The council also considered a session calendar and asked for additional options for the next meeting. The first day of the 2017 session is Monday, Jan. 2, 2017, and the House and Senate will convene at noon.

Call for Legislator Input on Rules: Please Comment

The Legislative Council Rules Subcommittee is seeking information from legislators on potential rule changes or areas of concern in the Joint Rules or the House or Senate rules. The members of the subcommittee are Rep. Bryce Bennett (D-Missoula), presiding officer; Rep. Stephanie Hess (R-Havre); Sen. Edward Buttrey (R-Great Falls); and Sen. Tom Facey (D-Missoula). The subcommittee will meet on May 18. The 2015 legislative rules may be found online at <http://leg.mt.gov/css/sessions/64th/default.asp>.

Any legislator wishing to provide comments, questions, or ideas on rule changes should contact Todd Everts or Susan Fox by email at teverts@mt.gov or sfox@mt.gov, or call 406-444-3064. Ideas are also welcome on training and other ways to assist legislators in understanding or using the legislative rules.

Next Meeting: Dates Changed

The council's next meeting date was changed to May 18-19. The meeting will be held in Room 102 of the Capitol in Helena at a time to be determined. Anticipated agenda items will cover the following:

- Legislator pay and implementation of the Senate Bill 283 (2015) stipend.
- Continued discussion on administrative rules of executive branch agency rules.
- TVMT proposals.

- Remote meeting possibilities.
- Planning for the 2017 session, including branch budget development.
- Revised proposed guidelines for legislator appointments to interim study committees or commissions.
- E-mail best practices for legislators.
- Legislative office space.
- Legislative rules.

August Meeting

The council will meet Aug. 24-25 at a location and time to be determined. The main topics for the August agenda include adoption of the legislative branch budget, suggested changes to the Joint, House, and Senate Rules, and any legislation to be sponsored by the Legislative Council.

More Information

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: <http://leg.mt.gov/legcouncil>

Council Staff: sfox@mt.gov or 406 444 3066

LFC Covers Budget and Other Issues at March Meeting

The Legislative Finance Committee held its quarterly meeting on March 10-11. At this meeting, the committee received reports on the budget status, state employee group benefit plans, the Child and Family Services Division of the Department of Public Health and Human Services, state infrastructure for building and leasing, and other areas. All handouts provided at this meeting are available on the committee's website at www.leg.mt.gov/lfc.

Budget Status Report

Legislative Fiscal Division staff presented the 2017 Biennium Budget status report, which included an analysis of all changes to departmental budgets and expenditures to date. It also included a summary of program transfers, reorganizations, operational plan changes, budget amendments, statutory appropriations, and carry forward appropriations.

The estimated general fund ending balance for fiscal year 2017 is \$357.2 million. Current revenue trends indicate end-of-the-year general fund collections at \$2,175 million, or about \$90 million less than the House Joint Resolution 2 (2015) revenue estimate. If a similar \$90 million shortage occurs in FY 2017, the ending fund balance would still be sufficient and the 17-7-140 (3), MCA, "trigger" would not

occur because the fund balance would have to fall below \$118 million.

State Employee Group Benefit Plan

The state employee group benefit plan report is summarized by Fiscal Analyst Kris Wilkinson in the “Back Page” article at the end of this newsletter.

Child and Family Services

The committee received the following information concerning the Child and Family Services Division.

- A follow-up from Sarah Corbally of DPHHS to the legislative audit of the CFSD, including fiscal implications.
- An overview from Beth McLaughlin, Supreme Court administrator, on the implementation of House Bill 612 (2015) concerning a child abuse court diversion pilot project.
- A discussion by a senior deputy county attorney for Yellowstone County, Corbit Harrington, of case growth in the Billings area.

The committee asked for further information on caseloads and federal regulation issues, which is tentatively scheduled to be presented at the committee’s June meeting.

Infrastructure

The committee heard a report from LFD staff contrasting the cost of building new state office space with the cost of leasing it. Data in the report showed that the total square footage of office space occupied by the state has changed little over the past six years. The report also showed that when the options are mathematically modeled, many variables need to be considered on a case-by-case basis. Ultimately, the analysis confirmed that, if only based on financial considerations, the cost of building and the cost of leasing are often close in the long term, with the best choice dependent on numerous factors.

Other Presentations

Other presentations at the March meeting included the following:

- The State Information Technology Services Division presented reports required by law, including an update on IT portfolio changes, a memo on Oracle licensing, a chief information officer policy change, and a draft volume 10 of the executive budget for information technology services.
- Quinn Holzer of LFD presented an update on the status of the Medicaid expansion authorized by Senate Bill 405 (2015), the HELP Act. As of March 1, 2016, DPHHS reported 36,320 newly eligible Medicaid recipients under

the HELP Act. Of these, 11,582 were under a third-party administrator, and 24,738 were under the traditional Medicaid system. The first part of FY 2016 has been very busy with activities related to preparing and implementing the HELP Act. The act officially became effective in November 2015, and the transition was made to enrolling new members and providing benefits beginning January 1, 2016. As of March 1, \$21.3 million in federal fund expenditures has been recorded against the statutory appropriation.

- A report by Cynthia Hollimon of LFD on Medicaid’s recent forecast and expenditure history in Montana and approaches by other states. This report can be found on the committee’s web page under “Medicaid Volatility” in the March 2016 meeting materials.
- The Medicaid Monitoring Report was given by Scot Conrady of LFD. He reported that overall Medicaid expenditures are currently projected to come in at \$18.9 million under the total appropriation.
- The governor’s budget director, Dan Villa, reported that he is comfortable with the revenues coming in and that wage growth is strong.
- Susie Lindsay and Sam Schafer of LFD delivered an update on the statutory appropriations interim study. They provided estimates for the 2017 biennium appropriations, presented a synopsis of the growth analysis of each statutory appropriation, and identified the statutory appropriations that do not meet more than five of the guidelines in 17-1-508(2), MCA.

Other Committee Business

In other committee business, Amy Carlson, legislative fiscal analyst and director, reported that the LFD’s work plan will continue as detailed in previous meetings. Legislative Finance Committee meeting dates were confirmed as previously decided in the December meeting. Director Carlson announced the decision to promote LFD fiscal analyst Quinn Holzer as the replacement to longtime staff member and operations manager Barb Smith. Smith will continue on staff for a short while to offer Quinn training, as provided by LFD management and the LFC.

Glen Stiner of the Department of Justice closed the meeting with an update on House Joint Resolution 8 (2014) study of the Montana Law Enforcement Academy. The report included a presentation of the master plan for the academy prepared by the Department of Administration’s Architecture and Engineering Division.

Next Meeting

The Legislative Finance Committee will meet on June 9-10 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, please visit the committee's website or call the Legislative Fiscal Division.

Committee Website: <http://www.leg.mt.gov/lfc>
Committee Staff: acarlson@mt.gov or 406-444-2986

Revenue and Transportation Committee Wraps Up Five Studies

At its March meeting, the Revenue and Transportation Interim Committee received information for the nine committee-chosen studies and heard updates from the Department of Revenue, the Department of Transportation, and the Montana Tax Appeal Board. Committee members also received a general fund revenue collection update, considered extending the joint revenue-estimating subcommittee process used during the previous legislative session, and discussed the rereferral of bills to the House Appropriations Committee and the Senate Finance and Claims Committee.

Committee Studies

The committee completed the information-gathering phase for five of its nine studies. Committee members assigned to monitor those studies are now charged with bringing recommendations or suggestions for legislation to the committee's June meeting. The five studies for which the committee is not expected to gather additional information are studies of tax increment financing districts, the elderly homeowner/renter credit, property taxable value neutrality, nonprofit reporting of community benefits, and the taxation of international corporations doing business in Montana.

Additional information will be presented for the four remaining studies at the June meeting. Those studies are of the highway state special revenue account, the adequacy of local government revenue-generating capacity, treatment of intangible property for centrally assessed property valuation, and tax liens and tax deeds.

Agency Updates

The Department of Revenue provided the committee with an income tax season update, an overview of major court cases to which the department is a party, the status of property valuation appeals, and an update on the reapplication of tax-exempt properties.

The Department of Transportation also presented information on a variety of topics, including federal highway funding, 2015 crash data, required reports on biodiesel refunds and compliance with special fuel laws, and unmanned aerial vehicles.

The committee also heard an update on the status of appeals filed with the Montana Tax Appeal Board.

Revenue Estimating and Monitoring

Legislative Fiscal Division staff presented the third fiscal year 2016 general fund revenue update to the committee. Legislative Fiscal Analyst Amy Carlson also updated the committee on revenue-estimating process improvements.

The committee also received information on the joint revenue-estimating subcommittee process used during the 2015 legislative session. The committee is considering whether to recommend a joint revenue-estimating subcommittee process for the next legislative session. Sen. Fred Thomas (R-Stevensville), presiding officer of the committee, appointed a subcommittee composed of Sen. Dick Barrett (D-Missoula), Sen. Mark Blasdel (R-Kalispell), Rep. Greg Hertz (R-Polson), and Rep. Tom Jacobson (D-Great Falls) to develop a proposal and provide it to the entire Revenue and Transportation Interim Committee at the next meeting. Sen. Barrett is the presiding officer of the subcommittee.

The subcommittee drafted a memorandum that was e-mailed to all legislators on March 17. The memorandum asks for input from all legislators, and the e-mail includes a link to a staff memorandum providing a summary of the process used last session and questions for consideration in developing a proposal. Comments may be submitted to Megan Moore, committee staff, at memoore@mt.gov by April 8. The subcommittee will tentatively hold a conference call to review the comments and develop a proposal before the next committee meeting.

Rereferral of Bills

Legislative staff presented information on agreements between the majority and minority parties in the Senate and the House on the referral of bills to the Senate Finance and Claims Committee and the House Appropriations Committee. The committee then discussed whether revenue bills heard in the taxation committees should be part of this rereferral process. Staff will summarize the discussion and refine the data for the committee's next meeting, and then the committee will decide whether to make a recommendation to Legislative Council on the process for revenue bills.

Next Meeting

The committee will meet on June 9-10 in Room 137 of the Capitol in Helena at a time to be determined. 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

WPIC Learns State Dredge-and-Fill Program Could Top \$1 Million Annually

It could take years for the state of Montana to start issuing certain waterway permits — and it could cost at least \$1 million annually to keep the program running — the Water Policy Interim Committee learned at its March meeting.

The Clean Water Act requires a section 404 permit for anyone depositing fill or dredge material into a jurisdictional waterway. The U.S. Army Corps of Engineers now issues these permits from its Helena and Billings offices. The committee is investigating whether the state of Montana should take the program over, as allowed under federal law and rule.

The committee also heard testimony from some who claim the \$1 million figure is too low, citing too few Corps staffers. Additionally, it is unclear whether Montana could assume the entire program, because an 1899 federal law requires the Corps to maintain jurisdiction over “navigable” waterways.

The committee will continue its study of the section 404 permitting process at its next meeting in May.

The committee also learned that about 40 percent of water right ownership transfers do not make it to the Department of Natural Resources and Conservation’s water rights database — a crucial information source for determining old rights and distributing water. Under current law, a property buyer must ensure that the water right transfer information makes its way from a title company to the Department of Revenue and DNRC.

The committee will continue this discussion at its next meeting. The committee also plans some field trips around the Gallatin Valley during that time.

Next Meeting

The committee will meet on May 2-3 at the Bozeman City Commission chambers 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: www.leg.mt.gov/water

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

The Back Page

Employee Group Benefit Plans

by **Kris Wilkinson, Fiscal Analyst**
Montana Legislative Fiscal Division

The state has two employee group benefit plans:

- The state employee group benefit plan (SEGBP).
- The Montana University System group benefit plan (MUSGBP).

The SEGBP experienced large cost increases for medical claims in the previous biennium. The higher-than-anticipated costs lowered the fund balance of the SEGBP below the level recommended by the plan actuaries. MUSGBP also experienced high medical costs in FY 2015. As part of the state employee pay plan for the 2017 biennium, the executive branch requested and received a 10 percent increase in the state share contribution to employee health care costs in FY 2016 and an 8 percent increase in FY 2017. The higher costs led to the decision by the Legislature to study the benefit plans over the interim. The information presented in this article is taken from a report to the Legislative Finance Committee in March, Comparisons Between State Employees Group Benefit Plans.

State Employee Costs for Health Insurance

Each of the state’s group benefit plans uses a different methodology to determine the amount charged to employees for health insurance. In addition, the MUSGBP contracts with multiple third-party administrators to drive competition. The SEGBP uses a single contractor to administer its plan. Figure 1 shows the annual premium costs for the state plans for a single employee, an employee and spouse, and an employee and family.

As shown, using SEGBP as the baseline for comparison, premium price differences narrow as the number of individu-

als covered by the plan increases. MUSGBP began setting explicit subsidization targets for dependent premium tiers and retirees seven years ago. The changes were made to meet the Cadillac tax requirements and other Patient Protection and Affordable Care Act (ACA) requirements for affordability. MUSGBP sets the dependent and retiree subsidies first and then determines the single rate necessary to meet revenue needs. Currently, SEGBP sets contribution rates to link the amount of the state share contribution to equal the single employee contribution.

Premium Costs

According to a Kaiser Family Foundation report titled 2015 Summary of Findings, virtually all employers with 1,000 or more workers offer coverage to at least some of their employees. In 2015, 83 percent of large employers partially or completely self-funded their health insurance plans. In 2015 for all plan types, the average single worker contributed \$1,071 toward premiums while the employer contributed \$5,179, or a ratio of 17.2 percent of premium costs paid by the employee and 82.8 percent paid by the employer. Family insurance premium contributions averaged \$4,955 for employees matched by \$12,591 for employers. The ratio of employee costs increases for families to 28.2 percent of the total average premium paid by the employee and 71.8 percent paid by the employer.

According to information from the Kaiser Family Foundation, recent trends in employer-sponsored health insurance plans show increases in average premiums for single and family coverage. Figure 2 shows the changes in the average annual premiums between 2004 and 2014.

Figure 1

Premiums for State Insurance Plans						
Plan Year 2016						
	Single Employee	% Difference from SEGBP	Employee & Spouse	% Difference from SEGBP	Employee & Family	% Difference from SEGBP
MUSGBP - Allegiance	\$7,488	-35.2%	\$11,148	-21.5%	\$14,136	-6.5%
MUSGBP - Blue Choice	7,320	-36.7%	10,908	-23.2%	13,836	-8.5%
MUSGBP - Pacific Source	8,184	-29.2%	12,192	-14.1%	15,468	2.3%
SEGBP	11,556		14,196		15,120	

Figure 2

Average Annual Premiums for Single and Family Coverage						
	2004	2006	2008	2010	2012	2014
Single	3,695	4,242	4,704	5,049	5,615	6,025
% Change from previous		14.8%	10.9%	7.3%	11.2%	7.3%
Family	9,950	11,480	12,680	13,370	15,745	16,834
% Change from previous		15.4%	10.5%	5.4%	17.8%	6.9%

Source: Kaiser Family Foundation analysis, Recent Trends in Employer-Sponsored Insurance.

Plans increased premium costs for health coverage at all levels. Over the 10-year period between 2004 and 2014, the average annual costs for a single employee increased by the following percentages:

- 63.1 percent at the national level.
- 45.8 percent for MUSGBP.
- 92.1 percent for SEGBP.

During the same period, the average annual cost for family coverage increased by the following percentages:

- 69.2 percent at the national level.
- 80.0 percent for MUSGBP.
- 73.3 percent for SEGBP.

Figure 3 contrasts the costs of average annual premiums for family coverage between the national average, the MUSGBP, and SEGBP between 2004 and 2014.

For the MUSGBP and SEGBP, the percentage of single-only coverage is about 50 percent. The other 50 percent are in rate tiers comprised of employees that cover spouses and/or families. To compare the aggregate premium of each of the plans to the national average, the following figures use a weighted calculation combining the single and family coverage increases in premium costs from 2004 through 2014:

- National level – 66.1 percent premium increase
- SEGBP – 82.7 percent premium increase
- MUSGBP – 62.9 percent premium increase

Factors Driving Recent Premium Increases

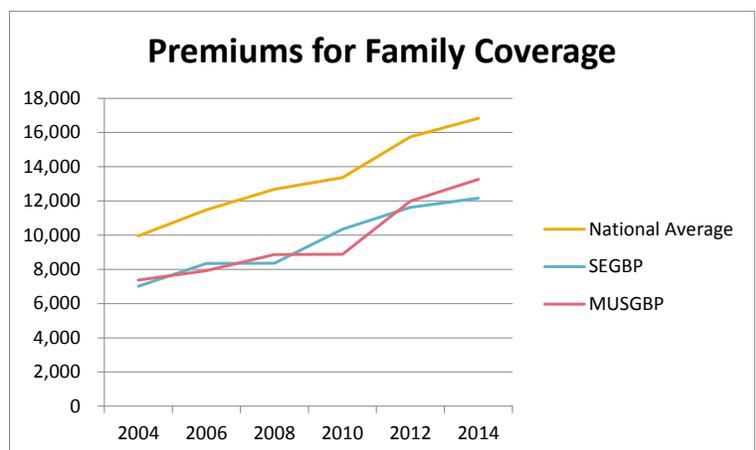
As stated, premium cost increases between plan year 2014 and 2015 for SEGBP were driven by higher-than-anticipated health care costs in 2014. According to SEGBP minutes from August 18, 2014, the following factors contributed to the high costs:

- 100 percent coverage of preventative care as required in the ACA and increased participation in health screenings that identified previously undiagnosed health conditions.
- Open enrollment in plan year 2014 that increased enrollees by about 500. Some of the members had cancer and other chronic diseases resulting in increased costs of \$1.1 million.
- Increased costs from providers, primarily outpatient hospital services, which increased \$8 million as of June 2014. Costs were driven by cancer and circulatory system diseases.

Further examination of the costs by the contracted actuary identified the following factors as also contributing to the high costs:

- The number of claims above \$100,000 increased by 33.4 percent and the aggregated costs for large claims increased by \$4.3 million more than expected.

Figure 3



- Expanded access to health care services due to establishment of the state employee health centers led to increases of \$4.5 million.
- An increase in the average claim lag from 1.35 months to 2.42 months. This resulted in \$9.6 million more in costs than previously identified.
- Implementing a mental health capitation program for which an annual fee is paid for each participant in a health plan, costing an additional \$1.5 million.

According to MUSGBP staff, increases in MUSGBP premiums during the last five years were the result of the following factors:

- Hospital costs have increased. While utilization is decreasing, the cost per service continues to increase, driving total costs higher.
- Pharmacy specialty drug costs have increased from 30 percent to 35 percent of total pharmacy costs in five years.
- As required by the ACA, lifetime limits have been eliminated. Prior to the change in FY 2014, the plan had only one claim of more than \$1 million. In FY 2015, the plan had four claims of more than \$1 million, including one of more than \$4.3 million. MUSGBP negotiated the costs from the \$4.3 million claim down to \$2.3 million. MUSGBP staff believes that part of the reason for the increase is a change in practice patterns whereby expensive care is utilized for high-risk individuals who may not have been accorded those options when there were lifetime limits for health care coverage.

A report titled *The Price Ain't Right? Hospital Prices and Health Spending on the Privately Insured* by researchers from various research facilities including Yale University, University of Pennsylvania, and Carnegie Mellon University discusses the results of a study of insurance claims data for 27.6 percent of the individuals with private employer-sponsored insurance in the U.S. between 2007 and 2011. According to the report, hospitals represent 31 percent of health care spending, with the average price of an inpatient admission in 2011 of \$12,976. The report reaches the following conclusions:

- Health spending on the privately insured varies by more than a factor of three across the 306 hospital referral areas in the U.S. According to the Dartmouth Atlas of Health Care 1999, a hospital referral area is defined by documenting where patients were referred for major cardiovascular surgical procedures and for neurosurgery. Montana has three referral areas: Missoula, Great Falls, and Billings.
- Being for profit, having more medical technologies, being located in an area with high labor costs, being a bigger

hospital, being located in an area with lower income, and having a low share of Medicare patients are all associated with higher hospital prices. In addition, the researchers estimate that “monopoly hospitals” have 15.3 percent higher prices than hospitals in markets with four or more hospitals. (It should be noted that Montana hospitals are considered “monopoly hospitals” as cities within the state do not have four or more hospitals within each market.)

- Hospital transaction prices play a large role in driving inpatient spending variation across hospital referral regions.
- Hospitals’ negotiated transaction prices vary substantially across the nation and also occurs across and within geographic areas. For example, the report found that within hospital referral regions, on average, the most expensive hospital had an MRI negotiated transaction price twice as large as the least expensive hospital.

A study conducted by Allegiance and confirmed by a third-party analyst in 2012 and again in 2014 compared Medicare pricing to the contracted amount Allegiance paid for inpatient and outpatient hospital costs in Montana. The study showed that inpatient costs ranged between 191 percent and 322 percent of Medicare rates. Outpatient services ranged between 239 percent and 611 percent of Medicare rates. These costs would be considered hospital transaction prices. The director of benefits for MUSGBP indicated in testimony before the LFC that one of the reasons for increased costs incurred by both of Montana’s state group benefit plans is that all Montana hospitals are considered monopoly hospitals.

SEGBP is working with its new third-party administrator, Allegiance, to address the increasing costs of both inpatient and outpatient hospital services. The Legislative Fiscal Division prepared a memorandum on reference-based pricing, which is one of the methodologies that could be used to control hospital costs.

Employer Contributions to State Employee Health Insurance Costs

One of the benefits provided to state employees, including those within the executive, legislative, and judicial branches and the Montana University System, is an employer contribution to a share of the employee benefit costs. The state share of benefit costs was \$887 a month in FY 2015, or \$10,644 a year. The majority of the contribution is used to provide health insurance coverage through the self-insured group benefit plan. This flat amount of employer contribution allocated across the plan to employees, regardless of whether they cover dependents or not, is a defined contribution to the health benefit plan. It differs from other commonly used contribution allocation methods used by employers. The two most common contribution methods are (1) a proportional cost split, or (2) a percentage of salary contribution. Both of these

methods are defined benefit contributions which are tied to increases in the cost of health care premiums.

During the 2017 biennium, state and university employees received increased state share contributions approved by the Legislature. The contribution increases are effective in January to correspond with the plan year. For state employees, the increases were as follows:

- \$89 a month, or 10 percent, in 2016 at a cost of \$1,068 a year per employee.
- \$78 a month, or 8 percent, in 2017 at a cost of \$936 a year per employee.

The MUS plan year begins in July of each year corresponding with the fiscal year. MUS employees did not receive an increase in state contributions in FY 2016. Based on their 2015 census of 8,409 employees, this amounted to \$8.9 million in FY 2016 that was not appropriated in House Bill 2 (2015). In FY 2017, the state contribution will increase 18.8 percent from \$887 a month to \$1,054, an increase of \$167 a month or \$2,004 a year per employee.

One of the impacts of the state contribution is that both plans charge a higher amount for a single employee's premium than may be required using insurance pricing principles. One of the impacts of the current pricing methodologies is that individuals subsidize the costs of providing insurance for dependents and retirees. To mitigate this, the MUSGBP has gradually been restructuring its pricing to more closely align the premiums to the costs of the plan for the individual. SEGBP is looking at making similar changes in its pricing structure in the next plan year.

It should be noted that according to statute each state agency is required make an employer contribution for group benefits. This directs the funding to the state employee group benefit plan, not to the employee. If health benefit costs for an individual employee are below the amount provided by the state employer share, the balance would be paid to the SEGBP or the MUSGBP, not to the employee.

Legislative Finance Committee

The LFC will receive additional information on the following topics at its June meeting:

- Health risk scores of state employee plan members and dependents between 2010 and 2014.
- State employee health clinics.