



# THE INTERIM

A Monthly Newsletter of the Montana Legislative Branch

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## NEW INTERIM FORMAT

After more than a decade of being published in booklet form, **THE INTERIM** newsletter is taking on a new look and format, with minor changes in appearance occurring from time to time, depending on the whims of the editor. There are some technical glitches, such as uncooperative hyphenation, aberrant underlining, and other computer-induced vexations, that need to be worked out, but they'll be resolved by and by.

As before, the monthly newsletter reports on the between-session activities of legislative committees, including the Legislative Council, the Environmental Quality Council, the Legislative Finance Committee, the Legislative Audit Committee, and legislative interim committees and subcommittees staffed by the Legislative Services Division. If you are interested in a particular committee, just refer to "In This Issue" to find the page number of the committee. A two-month calendar of events is included in each issue. Additional information, including committee membership, meeting schedules, agendas, reports, and draft legislation is available for each committee on the legislative branch website at <http://www.leg.mt.gov>; the easiest way to find a particular committee is by following the "Committees" links.

A regular feature of the newsletter is **The Back Page**, which presents an in-depth analysis each month on a topic of importance to Montanans. This month's article discusses the components of gasoline prices and how they may be affected by national and international events.

**THE INTERIM** is posted on the legislative branch website on the first of each month. If you have any questions or comments about the newsletter or suggestions for improvement, please contact Jeff Martin at (406) 444-3595 or [jmartin@mt.gov](mailto:jmartin@mt.gov)

## THE INTERIM

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**THE INTERIM** is a monthly newsletter that reports on the interim activities of legislative committees, including the Legislative Council, the Environmental Quality Council, the Legislative Finance Committee, the Legislative Audit Committee, and interim legislative committees and subcommittees staffed by the Legislative Services Division. Information about the committees, including meeting schedules, agendas, and reports, is found at <http://www.leg.mt.gov>. Follow the "Committees" link or the "Interims" link to the relevant committee. The newsletter is posted on the legislative branch website on the first of each month (follow the "Publications" link).

## AMERICA'S LEGISLATORS BACK TO SCHOOL WEEK

Montana's Senate and House leadership invite all Montana legislators to join their counterparts throughout the nation in *America's Legislators Back to School Week*, Sept. 20 - 24, 2004. This program gives lawmakers in all 50 states the opportunity to meet personally with their young constituents and to answer questions, share ideas, listen to concerns, and impart a greater understanding of the legislative process.

Sponsored by the National Conference of State Legislatures, the program is designed to teach young people--the nation's future voters and leaders--what it's like to be a state legislator: the processes, pressures, debate, negotiation, and compromise that are the very fabric of representative democracy. It also focuses state legislators on civic education during the same week all across the country, building personal links between schools and legislators and providing legislators an opportunity to observe what is going on in schools.

Although the third week of September has been designated as Legislators Back to School Week, lawmakers are encouraged to schedule a visit to their schools at a different time if it is more convenient. Legislators visiting Montana's classrooms is what's important, regardless of when it takes place.

To assist lawmakers in participating in Back to School Week, NCSL has prepared resource materials including talking points about the legislature and the legislative process and suggestions for age-group appropriate activities with students.

A Publication of  **Legislative Services Division**

Follow-up materials produced for teachers to use in the classroom include a student booklet and video titled "Your Ideas Count." These materials, plus other assistance to Montana legislators, are available through the Legislative Services Division.

This year marks the third year that the Montana Legislature has participated in the Back to School Week program. In 2003, 25 Montana lawmakers visited 121 classrooms and met with nearly 3,140 students. We hope to boost these numbers this year by getting more legislators involved.

If you would like to participate in Back to School Week, please contact Krista Lee Evans at (406) 444-3975 or kevans@mt.gov or Lois Menzies at (406) 444-3066 or lomenzies@mt.gov.

## COMPUTER USE SURVEY SENT TO LEGISLATORS

A computer use survey was mailed to all legislators in mid-June. The purpose of the survey, sponsored by the Legislative Branch Computer System Planning Council, is to determine legislators' needs for information technology services and how to best meet those needs.

If you haven't already done so, please take a few minutes to complete the survey and return it to the Legislative Services Division by July 19 in the stamped, addressed envelope mailed with the survey. Your participation in the survey is important and appreciated.

## REVENUE AND TRANSPORTATION COMMITTEE

Committee to Meet in July...The Revenue and Transportation Committee will meet July 9 at 8 a.m. in Room 137 of the Capitol. The primary purpose of the meeting is to review legislative proposals from the Department of Revenue and the Department of Transportation.

Brian Staley, from the Department of Revenue, will provide an overview of Montana's corporation license tax, and Lee Heiman, staff attorney, and John Alke, representing the Montana Taxpayers Association, will discuss the implications of a recent Montana Supreme Court decision in Great Falls Tribune, et al, v. Montana Public Service Commission on the confidentiality of corporation license tax information. Other agenda items include:

- Proposals for Committee requests for legislation
  - ▶ conform notice under quiet title action for tax deed under 15-18-411, MCA, with 15-18-413, MCA;
  - ▶ technical amendments related to HB 559 (Ch. 592, L. 2003) and SB 112 (Ch. 534, L. 2003), legislation dealing with registration,

fees, and surcharges of certain recreational vehicles;

- ▶ eliminate tax revenue analysis of natural gas suppliers under 69-3-1409, MCA; and
- ▶ other committee proposals;
- state general fund revenue update;
- activities of the Western Transportation Institute; and
- state enforcement of outdoor advertising laws on secondary roads and request for committee legislation.

In the Loop...For more information about the committee, its work plan, or agendas, please visit the committee's website or contact Jeff Martin at (406) 444-3595 or jmartin@mt.gov or Leanne Kurtz at (406) 444-3064 or lekurtz@mt.gov.

## EDUCATION AND LOCAL GOVERNMENT COMMITTEE

Committee Meets in June...The Education and Local Government Committee met on Wednesday, June 9 to hear reports from its subcommittees and from the Commissioner of Higher Education. The last time the full committee met was in Oct. 2003. The committee created three subcommittees where most of the interim work has been done.

Commissioner of Higher Education Reports on Athletic Deficit and Unified Education...Commissioner of Higher Education Sheila Stearns gave two reports to the committee. The first was on the University of Montana athletic deficit and the second was on the work of the P-20 Committee.

Stearns discussed the executive summary of the report on the athletic deficit. The report contains 26 recommendations to the Board of Regents. The commissioner's office is now looking at the other units of the university system to determine if there is a systemic problem regarding athletic expenditures. Stearns assured the committee that tuition will not be raised to cover the deficit. There will be small increases in the student athletic fee, but the increases will not take effect until the 2005-06 academic year. The deficit will be covered by concession fees, licensing fees, and other sources of revenue that don't impact students. The complete report is available on the Commissioner of Higher Education's website ([www.montana.edu/wwwoche](http://www.montana.edu/wwwoche))

Stearns also reported on the activities of the P-20 Committee of the Board of Education (Board of Regents and Board of Public Education sitting together). The purpose of the P-20 Committee is open up the dialogue between K-12 education and higher education in order to develop an

integrated, seamless education system in Montana. The committee has the support of Gov. Judy Martz, Board of Regent member John Mercer, Superintendent of Public Instruction Linda McCulloch, and Board of Public Education President Kirk Miller.

Postsecondary Education Policy and Budget Subcommittee...Sen. Greg Barkus gave an update on the work of the Postsecondary Education Policy and Budget Subcommittee. The subcommittee is working closely with the Board of Regents on the economic development shared leadership plan. The purpose of the plan is to develop a way for the university system to take a more direct leadership role in the state's economic development. The subcommittee will present its final report, along with proposed legislation, to the full committee at its next meeting in September.

Health Insurance for School Employees...Rep. Lar-ry Lehman reported on the work of the K-12 Education Subcommittee. The subcommittee created a working group composed of educational organizations, school districts, and health insurance professionals to develop a proposal for a statewide health insurance plan for public school employees. The working group needs more time to complete its proposal. The group hopes to have a completed proposal to committee staff by Aug. 1 for bill drafting. Staff will circulate the bill draft to committee members and other interested parties by Aug. 15. The committee will consider the bill draft for introduction as a committee bill at the September meeting.

HJR 37 Bill Draft...House Joint Resolution 37 (review of the Subdivision and Platting Act) was assigned to the Local Government Subcommittee. After many meetings and a lot of effort by a working group, a bill draft was presented to the subcommittee, which in turn recommended that the full committee adopt it as a committee bill. Sen. Rick Laible discussed the main elements of the bill draft. The legislative proposal would provide more accountability and predictability in the subdivision approval process. After some discussion, the committee agreed to request the proposal as a committee bill (LC0040). The bill can be followed through drafting and introduction on the legislative branch website.

Final Meeting in September...The Education and Local Government Committee will hold its final meeting of the interim on Sept. 14-15. The committee will hear the final reports of the subcommittees as well as the final report of the Public School Renewal Commission.

The committee will also review proposed legislation from agencies under the committee's jurisdiction. Those include the Office of Public Instruction, the Board of Public Education, the Commissioner of Higher Education, the Historical Society, the State Library, and the School for the Deaf and Blind. The Montana Association of Counties and the Montana League of Cities and Towns will be invited to present their legislative proposals to the committee.

## STATE-TRIBAL RELATIONS COMMITTEE

Committee Visits Northern Cheyenne...The State-Tribal Relations Committee made its second reservation visit this interim, this time to the Northern Cheyenne Reservation in southeastern Montana on June 3 and 4. The purpose of the visit was to tour the reservation and to discuss areas of mutual interest with the Northern Cheyenne Tribe.

Linwood Tallbull, director of the Northern Cheyenne Elderly Program, welcomed the committee to the reservation. The Teton Drum Group sang a flag song and an honor song for the committee. Geri Small, president of the Northern Cheyenne Tribe, also welcomed the committee and introduced members of her staff. President Small said how important it was for people from state government to visit reservations and how pleased she was that the committee choose to visit Northern Cheyenne. Sen. John Bohlinger responded with some remarks about the role of the committee and the purpose of the visit. He introduced committee members and staff and then presented President Small with a Montana flag and a CD-ROM of the Montana Code Annotated.

Committee Tours Reservation...Carrie Braine, director of the Tribal Employment Rights Office, was the tour guide for the committee. The tour began at the Boys and Girls Club in Lame Deer. The club operates independently of the Northern Cheyenne Tribe and serves all of the Reservation youth between the ages of 5 and 19. The club is open six days a week during the school year and seven days a week during the summer. There is a computer lab with computers donated by Bill Gates, a gymnasium, an arts and crafts room, and a snack bar. The club offers a variety of activities from tutoring to modern dance. There is also a print shop associated with the Club. The shop can produce brochures, announcements, and invitations and also does silk-screening on T-shirts. Funding for the club has declined in recent years, necessitating the layoff of some staff and the curtailing of some programs. The club needs some roof repairs.

The next stop was the Food Distribution Program. The program serves about 600-800 eligible tribal members every month and delivers food to the elderly and the disabled who are unable pick up the food themselves. The program provides canned and packaged food, fresh fruits and vegetables, and meat. The program has a demonstration kitchen where tribal members can learn how to prepare nutritious meals, but funding cutbacks have eliminated that service.

The committee next visited the Youth Services Center and the Northern Cheyenne Tribal School in Busby. The center is a BIA-operated detention facility for Northern Cheyenne youth ages 12 to 18 who are sentenced to detention by the Tribal Court. Previously, Indian youth were sent to out-of-state BIA facilities, which made it very difficult for families to visit and support them. If room is available,

Indian youth from other Montana reservations may also be sent to the center. The tribal school will serve the educational needs of the youth who are detained in the center. Construction of the center is almost complete. The hiring and training of staff should begin this summer; the staff needs to be certified in juvenile corrections. The BIA hopes to have the center operating by Oct. 2004.

The committee did not have time to visit the tribal school. The Northern Cheyenne Tribe took over the operation of the K-12 school from the BIA. The school is accredited by the state.

The committee toured the new Charging Horse Casino in Lame Deer. The gaming compact with the state allows the casino to have 100 gambling machines and to offer \$1,500 payouts. The casino also has a large bingo room that can accommodate up to 500 people. Bingo is not subject to a compact. The Montana tribes are working on draft legislation that would allow the tribes to determine the number of machines and the payout limits based on what the market will bear. The tribes would also like to be allowed to offer games, such as blackjack, that are currently prohibited by the state.

The committee visited Chief Dull Knife College. The two-year college offers an Associate of Arts degree in General Studies with various options and Associate of Applied Science degrees in Office Management and Business. In addition, vocational certificates are offered in Office Skills and Entrepreneurship. The campus includes the new cultural center and the learning skills center; the latter is built of hay bales to which stucco has been attached. This type of construction is energy efficient and inexpensive. Dr. Richard Littlebear, president of the college, discussed the importance of state funding for nonbeneficiary students. Chief Dull Knife has an open enrollment policy and serves an average of 27 nonbeneficiary students every year. The college receives no federal funding for these students who must pay their own way.

The committee toured the Lame Deer public schools with Gary Hopkins, director of Federal Programs for the Lame Deer school district. Hopkins said that the Lame Deer schools have improved the academic achievement of its students. He also discussed some of the challenges that the school district faces including the need for funding to implement "Indian Education for All" and the impact of Senate Bill 424 on the Lame Deer schools. Senate Bill 424 requires that the cost of retirement benefits for federally-paid employees be paid out of the federal source that pays their salaries instead of out of the district's retirement fund. The law severely impacts low-income school districts that are more dependent on federal funding than higher income districts. Hopkins provided figures to show that the amount that Lame Deer will have to pay in retirement costs for Title I teachers would easily pay the salary of an additional teacher.

The final stop on the Thursday tour was the Indian Health Service (IHS) Clinic. The clinic, built in 1999, replaced a facility that was destroyed by fire. The clinic is an outpatient facility; tribal members who require an inpatient treatment are sent to the IHS Hospital at Crow Agency. The

Northern Cheyenne Clinic offers medical, dental, optometry, mental health, and emergency room services. There is also a laboratory, a pharmacy, and a radiology department. The clinic boasts of having the only American Indian female dentist in the United States, who just happens to be Northern Cheyenne. There is also a dentist who specializes in the care of children. The emergency room is open 24 hours a day, 7 days a week. The Montana Department of Transportation has agreed to post signs on the highways leading into Lame Deer announcing the availability of the emergency room services.

#### Committee Meets with Tribal Program Officers.

The committee met with tribal program officers at the Littlewolf Capitol Building. The tribal offices presented information on the following tribal programs/departments:

- Workforce Investment Act
- Food Distribution
- Social Services
- Elderly
- MSU Extension Service
- Tobacco Prevention
- Women, Infants, and Children
- Tribal Employment Rights/Transportation
- Education

Each tribal officer gave an overview of the program and, in some instances, asked the committee's assistance in addressing some program needs. The committee agreed to research the various issues to see what could be done.

Committee Holds Public Hearing...On Thursday evening, the committee held a public hearing on the House Joint Resolution 8 study of dropout prevention at the Lame Deer Alternative High School. The purpose of the hearing was to gather information to be used in the study. About 20 people attended the hearing and 10 offered testimony. Those who testified were mainly parents who had concerns about the Lame Deer schools and the Tribal School at Busby.

If It's Friday, It Must be Lame Deer...Friday morning the committee toured the Lame Deer High School. The tour was again led by Gary Hopkins. Due to budget limitations, the Alternative High School will be integrated into the regular high school next year.

The committee then met with tribal environmental officials to discuss the impacts of off-reservation coal bed methane development on the water and air quality on the Northern Cheyenne Reservation. The tribe would like to see long-term sustainable development rather than the "boom-and-bust" cycle of resource development. The tribe is also concerned about the impact on infrastructure and law enforcement on the reservation once development begins. The officials asked for the committee's assistance in getting access to state funding to mitigate the impacts of resource development on reservations.

The committee attended a groundbreaking ceremony for a new recreation area. There used to be

softball fields and basketball courts on the north edge of Lame Deer, but that area was used for the new health clinic. Since 1999, there has been no recreational area for reservation residents. A cooperative venture of the tribe, the BIA, and the IHS, this new complex will have softball and soccer fields and basketball courts. Eventually, the tribe hopes to build horseshoe pits, picnic tables, walking trails, playgrounds, and concession stands so that the whole family can enjoy the complex.

The committee ended its tour with lunch at the Shoulder Blade Center, a housing complex for elderly tribal members. During lunch, the committee visited with tribal elders and engaged in a few rousing games of bingo.

Final Meeting in August...The committee will hold its final meeting of the interim during the first week of August. The committee will finish up its requests for legislation and approve its final report. For more information, please contact Connie Erickson at (406) 444-3078 or at cerickson@mt.gov

## ENERGY AND TELECOMMUNICATIONS COMMITTEE

Committee to Circulate Legislative Proposals for Public Comment...The Energy and Telecommunications Interim Committee met in Colstrip on June 9 and 10. The committee decided to circulate several legislative proposals for public comment. These proposals would:

- require Public Service Commission review of certain utility transactions;
- require certain measures recommended by the Governor's Consumer Energy Protection Task Force to financially isolate ("ring fence") regulated utilities from affiliates and holding companies;
- revise the laws related to the Energy and Telecommunications Interim Committee and energy policy;
- change the way that the universal system benefits charge assessed on electricity customers is calculated; and
- extend the eligibility date for the property tax exemption that is allowed for electrical generation and related delivery facilities that offer to sell 50% or more of their output at a cost-based rate.

With respect to the last proposal above, facilities constructed before Jan. 1, 2006, are eligible for the exemption under current law. The committee is considering extending the eligibility period until Jan. 1, 2012. Exempt facilities must pay a local government and local school

impact fee. The committee is also considering authorizing assessment of the fee by additional local government units in the area of the facility. The fee is currently limited to the jurisdiction or jurisdictions in which the facility is located.

Draft proposals will be available on the committee's website and from committee staff in late July.

Final Meeting Sept. 9 and 10...The committee will hold its final meeting of the interim in Helena on Sept. 9 and 10. Most of the meeting will be devoted to making decisions on potential committee legislation and hearing legislative proposals from the telecommunications industry, the Montana Electric Cooperatives' Association, and the Montana Public Service Commission.

Want to Know More?...Meeting agendas and materials and related information may be viewed on the committee's website. Contact Mary Vandebosch at (406) 444-5367 or mvandebosch@mt.gov for more information or to be added to a mailing list. (*Editor's note: Mary Vandebosch has accepted a position with the Department of Natural Resources and Conservation. Todd Everts will take over staffing of the committee. He may be reached at (406) 444-3747 or teverts@mt.gov.*)

## STATE ADMINISTRATION AND VETERANS' AFFAIRS COMMITTEE

Committee Reviews Agency Legislation...The State Administration and Veterans' Affairs Interim Committee met in Helena on June 14. Several executive branch agencies presented legislative proposals that are likely to be introduced for consideration during the 2005 legislative session. The committee is responsible for reviewing proposed legislation from the Department of Administration, the Department of Military Affairs, and the Office of the Secretary of State, and any entities that are attached to any of the agencies (e.g., the Board of Veterans' Affairs or the Public Employees Retirement Board).The committee also reviewed proposed legislation from veterans (license plates) and from retired firefighters (benefit adjustments).

The committee agreed to request that approximately 50 bills be drafted on behalf of the respective agencies. The entity proposing the respective bills will be responsible for finding sponsors for the bills and for ensuring the bills are reintroduced.

Committee Adopts Several Recommendations on Montana Highway Patrol Recruitment and Retention...Rep. Stan Fisher, the chairman of the Subcommittee on MHP Recruitment and Retention, reported on the April 13 meeting of the subcommittee (see the June issue of **THE INTERIM** for prior coverage). Capt. Mike Tooley and other staff of the Montana Department of Justice, of which the MHP is a division, discussed the analysis of the problems and a plan of action that had been presented to the subcommittee in

April. The plan of action includes a recommendation that the Legislature adequately fund in a predictable and sustainable manner the authorized level of MHP uniformed officers and to pay the officers on the basis of an index reflecting the pay levels of law enforcement officers in Montana's seven or eight most populous counties and the cities and towns within those counties.

Mike Wingard, an audit manager with the Legislative Audit Division, told the committee that the audit division had recently conducted a performance audit of the highway patrol. He discussed the preliminary findings and conclusions of the audit, many of which verified data and information that had been provided by the MHP. Wingard said that the final results of the performance audit would be presented to the Legislative Audit Committee on June 21. (A copy of the audit is available from the Legislative Auditor and on the LAD website.)

The subcommittee proposed several options for the committee's consideration. The committee adopted the following recommendations:

- Appropriate approximately \$532,000 annually to the MHP that has been unavailable because of "vacancy savings" imposed on the MHP. With this funding, the MHP should be able to maintain its approved force of approximately 220 uniformed officers.
- Establish a Montana law enforcement salary index reflecting the average compensation paid to entry-level law enforcement officers within eight of Montana's most populous counties: Gallatin, Missoula, Flathead, Lewis and Clark, Butte-Silverbow, Cascade, Yellowstone, and Dawson. The index would set the starting compensation of entry-level officers of the MHP and would be recalculated every two years to ensure that MHP compensation remains competitive with local law enforcement officers.
- Impose a \$5 annual fee on each automobile liability insurance policy sold in Montana. Revenue from the fee would be earmarked for the MHP to mitigate problems of recruitment and retention of uniformed officers and, if sufficient funds are available and appropriated, to expand the MHP uniformed force.

The committee did not approve the following options that had been proposed by the subcommittee:

- As an alternative to a fee on each insurance policy, institute a \$5 annual fee on each vehicle registration or reregistration. Revenue from the fee would be earmarked for the MHP, specifically to mitigate problems of recruitment and retention of uniformed officers.
- Increase the beer tax from \$4.30 (on production in excess of 20,000 barrels annually) to a level

sufficient to fund the staffing and compensation recommendations, but not to exceed the current rate of the federal tax on beer.

- If none of the new sources of revenue is adopted, appropriate state general fund money for MHP to mitigate problems of recruitment and retention of uniformed officers.

Rep. Fisher spoke in favor of increasing the taxes on beer and wine, saying that the consumption of beer and wine is the source of many calls to the MHP for assistance, many accidents, and much of the MHP workload. He advocated that the beer and wine tax remain an option as the recommendations move through the 2005 legislative session.

For additional information about the committee, contact Dave Bohyer at (406) 444-3064 or at [dbohyer@mt.gov](mailto:dbohyer@mt.gov).

## SJR 32 SUBCOMMITTEE ON MEDICAL LIABILITY INSURANCE

Subcommittee Considers Proposed Legislation...The SJR 32 Subcommittee met on June 24. The principal agenda item for the meeting was to take action on several draft bills, which included additional testimony, consideration of proposed amendments, and subcommittee recommendations.

As a result of the subcommittee's March work session and work done since then, several options considered by the members have been prepared by staff into draft legislation. The draft bills are:

- LC 5000: a Montana version of Wisconsin's *Health Care Liability and Injured Patients and Families Compensation Act*. This act, if adopted, would create an "excess liability insurance plan" in which medical providers and facilities would participate and through which all claims of medical negligence or malpractice would be processed. An overview of the Wisconsin act is on the subcommittee's website, under "Reports."
- LC5001: providing that for purposes of a medical malpractice claim, a health care provider or health care facility is not liable for an act or omission by a person or entity claimed to have been an ostensible agent of the health care provider or health care facility at the time that the act or omission occurred.
- LC 5002: providing that an insurer against medical malpractice need not pay and may not be ordered by a court to pay any type of damages, including but not limited to medical expenses and lost wages, prior to a final settlement or a judgment when liability

for the act or omission and liability for the damages are reasonably clear.

- LC 5003: providing that a third-party claimant may not bring an action for bad faith in connection with the handling of a medical malpractice insurance claim.
- LC 5004: providing that for purposes of a medical malpractice claim, a health care provider or health care facility is not liable for an act or omission by a person or entity that was not an employee or agent of or otherwise under the control of the health care provider or health care facility at the time that the act or omission occurred.
- LC 5005: regulating the amount of damages that may be granted for medical malpractice that reduces a patient's chance of recovery.
- LC 5006: revising the medical malpractice legal panel act by: requiring a claimant before the panel to pay half of the costs of the panel; increasing the maximum time in which a claim must be heard; requiring a legal record be made and kept of the panel hearing; and providing that the record, documentary evidence that is submitted, and panel decision are admissible in an action subsequently filed in a court.
- LC 5007: making expressions of sympathy or benevolence to an injured person or an injured person's family inadmissible as evidence of an admission of liability in a civil action.
- LC 5008: providing for qualifications for medical malpractice expert witnesses.
- LC 5009: providing for a joint underwriting association, consisting of all medical malpractice insurers operating in the state, that would provide medical malpractice insurance.

The "LC" numbers attached to the drafts are informal tracking numbers for reference only. None of the draft bills has been formally requested. Each of the draft bills is available on the subcommittee's website. The August issue of **THE INTERIM** will provide coverage of the subcommittee's action.

A summary of previous meetings is also available on the subcommittee's website, through the agendas and minutes of the meetings. Please check the website periodically for more details of the subcommittee's meetings, past and future. You may also contact the subcommittee's lead staff, Dave Bohyer, Legislative Services Division, at (406) 444-3064 or at [dbohyer@mt.gov](mailto:dbohyer@mt.gov).

## ECONOMIC AFFAIRS COMMITTEE

Legislation From Hither and Yon... Among groups slated to present either their legislative agendas or their views on legislation before the Economic Affairs Interim Committee on June 30 and July 1 were the Montana Economic Developers Association, the Montana League of Cities and Towns, the Montana Chamber of Commerce, and the Montana Ambassadors. Don Peoples of MSE Technology Applications provided an overview of the Mariah wind project.

The day-and-a-half meeting (additional coverage will be in next month's newsletter) provided opportunities for public and committee comment on legislation proposed by agencies assigned to the committee for monitoring purposes. The agencies presenting proposed legislation included the Departments of Labor and Industry, Agriculture, and Commerce; and the State Auditor's Office. Under an agreement with the State Administration and Veterans' Affairs Interim Committee, the Economic Affairs Committee includes Montana State Fund, which is attached to the Department of Administration, in its legislative review so that all workers' compensation legislation is before one committee.

Progress Reports on Executive Branch Studies... Early summer is a tad soon for some studies assigned by the Legislature to be completed, so the Economic Affairs Committee heard progress reports on Senate Bill 315, a feasibility study on railroad freight competition assigned to the Governor's Office of Economic Development, and on Senate Bill 270, a study of independent contractors assigned to the Department of Labor and Industry. As background for legislation being reviewed by the committee, the Legislative Auditor's Office discussed its findings from House Joint Resolution 20 requiring a performance audit that makes recommendations for DOLI's management of professional and licensing boards. Montana State Fund presented recommendations in its proposed legislation from the SB 304 study committee on findings related to the study of whether to sell all or part of the State Fund and create a high risk pool.

Decisions, Decisions, Decisions... The committee discussed whether to request legislation on economic development, including to develop equity capital for Montana businesses, and on workers' compensation related to the Senate Joint Resolution 17 study. Proposals considered by the committee are available on its website under meeting materials.

Dog Days of August... The committee will meet for the last time this interim on Aug. 19 and possibly on Aug. 20 if more time is needed. For more information, go to the committee's website or contact Pat Murdo, committee staff, at (406) 444-3594 or [pmurdo@mt.gov](mailto:pmurdo@mt.gov).

## CHILDREN, FAMILIES, HEALTH, AND HUMAN SERVICES COMMITTEE

Committee Meets in June...The committee met on June 29 and 30 in Helena. Coverage of the meeting will appear in next month's newsletter. The committee plans to hold its final meeting of the interim on Aug. 27 to finish work on the Senate Joint Resolution 11 study on drug prevention, intervention, and treatment. The committee will also complete its legislative package and approve a draft final report. The June meeting materials are available on the committee website and the agenda for the final meeting should be posted by mid-August.

If you need more information or wish to be placed on the interested persons list, contact Susan Byorth Fox at (406) 444-3597 or [sfox@mt.gov](mailto:sfox@mt.gov).

## LEGISLATIVE FINANCE COMMITTEE

Terry Johnson Recognized by National Conference of State Legislatures...Terry Johnson, the Legislature's chief revenue forecaster, has received national recognition for service to the Montana Legislature and for a distinguished career that spans more than 30 years. The National Conference of State Legislatures has selected Johnson to receive its Legislative Staff Achievement Award. The nomination for the award was based upon the following criteria:

- The nominee has made a significant contribution to the resolution of a fiscal or public policy issue before the state legislature.
- The nominee, over time, has consistently demonstrated a high degree of professionalism and excellence in a body of work or career that warrants special recognition.
- The nominee has made other unique contributions in promoting and developing the role of legislative fiscal staff assistance in the legislative process.

The nomination included an overview of Johnson's career accomplishments and focused on recent achievements, such as his development of databases that help the staff of the Legislative Fiscal Division to better serve the Legislature. The nomination stated that "he has taken the knowledge gained from working in budget and fiscal policy areas and the skills gained from a career of making evolving information technology work for himself and fellow workers, and has developed computer tools for coworkers that go way beyond what each of us could ever anticipate." Congratulations to Terry Johnson for this well deserved award.

The LFC June Meeting...The Legislative Finance Committee met on June 17 and 18. The reports for most agenda items are available on the Legislative Fiscal Division

(LFD) website at <http://leg.mt.gov/css/fiscal/lfc.asp>. Minutes will be posted as soon as they are available. For more information about the meeting, please contact Clayton Schenck at [cschenck@mt.gov](mailto:cschenck@mt.gov) or by telephone at (406) 444-2986.

Department of Public Health and Human Services...Staff presented the report *Developmental Disabilities System: Update on Emerging Issues*. The report outlined the status of emerging issues related to the Department of Public Health and Human Services:

- DD system redesign:
- Travis D. litigation settlement agreement:
- Medicaid redesign: and
- potential decertification for Medicaid reimbursement of some institutional residents.

For more information on this topic contact Pat Gervais, senior fiscal analyst, at (406) 444-1795 or [pagervais@mt.gov](mailto:pagervais@mt.gov)

Staff also presented the report *Travis D. Settlement Agreement: Potential Cross System Impacts and Implications*. The report discussed the potential impacts that the Travis D. settlement may have on other disability service systems and on eligibility for services. The report also reviewed the over-arching policies recommended by the Governor's Health Care Advisory Council and adopted by DPHHS. The over-arching policies are interrelated to the cross-system impacts of the Travis D. settlement agreement. For more information on this topic contact: Pat Gervais at (406) 444-1795 or [pagervais@mt.gov](mailto:pagervais@mt.gov), or Lois Steinbeck, senior fiscal analyst, at (406) 444-5391 or [lsteinbeck@mt.gov](mailto:lsteinbeck@mt.gov)

Cost Overruns Expected in State Assumption of District Courts...Based upon current and projected expenditures, the judiciary predicts that it will experience approximately \$3.4 million in cost overruns for the state assumption of district courts during fiscal year 2004. The judiciary anticipates that it may be able to partially offset the overrun in two ways. First, it may be able to reduce operating costs by \$0.5 million, and, second, it plans on using \$1 million in 2003 biennium general fund reversions that were approved in a language appropriation for the 2005 biennium. However, the use of reversion amounts is a short-term solution to cover part of the cost overrun. If the shortfalls are not dealt with permanently, it is likely that they will be of similar magnitude in fiscal year 2005. The potential cost overrun for the biennium ranges between \$4.8 and \$6.8 million. There are several factors within the program that may be contributing to the cost overruns including the level of staffing, the cost of personal services, the cost of attorney and evaluation services, and growth in caseload. Legislative Fiscal Division staff are reviewing these costs and areas of concern. For further information, contact Harry Freebourn at (406) 444-5834 or [hfreebourn@mt.gov](mailto:hfreebourn@mt.gov).

Workers' Comp: Old Fund Projected Deficit and New Fund Rate Increase...The Montana State Fund (MSF) expects that the Old Fund (workers' compensation claims paid for injuries resulting from accidents that occurred before July 1, 1990) will have an ending fund deficit of approximately \$600,000 by the end of fiscal year 2004. The shortfall creates a potential general fund liability for the state. Section 39-71-2352(6), MCA, requires that the state cover deficits in the fund. However, the statute is unclear on the timing of the liability to the state. The Legislative Fiscal Division, MSF, and the Senate Bill 304 study committee are looking at the timing of when a deficit is to be funded by the general fund. MSF believes that the deficit was caused by lower than expected investment earnings, increasing medical expenses, and the aging of plan participants.

Senate Bill 19 (August 2002 special session) and House Bill 363 (2003 regular session) required the transfer of excess funds from the Old Fund to the general fund. So far, \$23.1 million has been transferred from the Old Fund to the general fund. At the time House Bill 363 was passed, surpluses were expected for fiscal year 2004 in the amount of \$4.3 million and for fiscal year 2005 in the amount of \$3.8 million. Although \$800,000 in surpluses was transferred to the general fund in fiscal year 2004, it is unlikely that additional surpluses will be available for transfer in fiscal year 2005.

Premiums for the New Fund are expected to increase by an average of 9.5% beginning July 1, 2004. The actual rate increase for each customer is based on the past claim experience of the customer. The estimated fiscal year 2005 premium for state government is \$13.3 million, or an 18% increase over the prior fiscal year. Premiums for the state have increased by 18% to 30% over the last 3 fiscal years. MSF believes that the new rates are needed to cover plan losses and the erosion of the fund's surplus. The fund experienced a \$17.6 million net loss during fiscal year 2003. For more information, contact Harry Freebourn at (406) 444-5834 or hfreebourn@mt.gov.

General Fund Update...Terry Johnson reported on general fund revenue collections. Based on collection data through the end of May 2004, total general fund revenue in fiscal year 2004 may exceed House Joint Resolution 2 revenue estimates by \$40.2 million. Although the outlook for some revenue sources, such as investment earnings, has not improved since March, the overall outlook for general fund revenue has improved substantially. Revenue from individual income taxes, oil and gas production taxes, video gambling taxes, and inheritance taxes are all higher than the House Joint Resolution 2 estimates. During June and the fiscal year end adjustment period (July 1 to July 23), significant amounts of revenue are recorded on the accounting system. Both cash and accrual transactions could affect the potential excess revenue. A full report on the financial status of the general fund account for fiscal year 2004 will be released in October.

The report raises the obvious question: "What does this information indicate for fiscal 2005 and beyond?" The trends portray a more optimistic outlook for the future, but a

thorough analysis of the "permanent" versus "one-time only" nature of these collections is required. Without this information, erroneous conclusions could easily be made. The analysis will be done during the summer and fall in preparation for the revenue estimating process of the Revenue and Transportation Committee. For further information, contact Terry Johnson at (406) 444-2952 or tjohnson@mt.gov.

2005 Biennium Budget Spending "Pressure Points"...Staff highlighted the areas of the budget that may require supplemental funding by the Legislature in fiscal year 2005. Supplemental funding is provided when the current biennium appropriation is insufficient to meet all expenses, the effect of which is to reduce the general fund ending fund balance for the biennium. A supplemental of \$7.9 million is still anticipated in K-12 education. In addition, a recent determination by the U.S. Department of Education that impact aid funds cannot be used to fund school retirement costs could add up to another \$1 million. Additional costs for corrections and district courts could amount to \$3 and \$4.8 million, respectively, while fire costs could substantially exceed the remaining federal relief funds earmarked for that purpose. Three other areas could also lead to additional costs: 1) the state is negotiating with the federal government on how much reimbursement is owed by the state for the federal share of the state workers' compensation old fund balance transferred to the general fund; 2) a number of persons currently employed by elected officials in exempt positions will be eligible to receive payouts if they leave state service; and 3) the state has nearly exhausted the biennial appropriation for major litigation expenses. For further information, contact Taryn Purdy at (406) 444-2986 or tpurdy@mt.gov.

Homeland Security and Hazards Emergency Management...During the 2005 biennium, three Montana state agencies have been allocated roughly \$55 million of federal money to support homeland security programs. Most of the money is passed through the state to local communities for investment in equipment, emergency preparedness, and training. Below is a brief description of some of the homeland security programs.

- Disaster and Emergency Services (DES) in the Department of Military Affairs reported that federal funding (from the Department of Homeland Security) is being used to acquire first responder equipment, hazardous material gear, explosive ordinance disposal equipment, and communications systems. The funds also support the development of special terrorism annexes to the local emergency management plans in every county.
- The Department of Public Health and Human Services (DPHHS) reported that federal funding (from the Center for Disease Control and the Health Resources and Services Administration) is being used to build a comprehensive public health

emergency management system to deal with hazards from anthrax to SARS. Each local health department has been funded to create comprehensive plans and protocols. The state public health lab has been significantly upgraded. An around-the-clock incident command system has been developed for public health emergencies. Fifty-three hospitals in the state have received funding for preparedness and planning for public health emergencies.

- The Department of Livestock reported that federal funding (from the USDA) is being used to educate veterinarians and livestock producers about potential threats to the food chain, particularly at the producer level.
- Finally, five county DES coordinators reported that the federal funding has helped local emergency management systems to attain a new, unprecedented level of preparedness. New equipment has been critical, and emergency drills test the effectiveness of the enhanced systems. The coordinators said that there has been new energy and participation at the Local Emergency Planning Commissions.

The Montana Homeland Security Task Force has completed a statewide strategic plan, which was cited by the federal government as a "best-practices" document and process. The task force has also been critical in overseeing the allocation of federal funding to priority areas. The executive order that established the task force authority will expire in October.

Feds Consider Homeland Security Funding Cut Backs... Unfortunately, federal funding for homeland security is scheduled to be reduced for most programs and eliminated for others. For example, the proposed federal budget, which is still in committee, would eliminate funding to DES and grants to Department of Livestock; it would also reduce funding to DPHHS.

In addition, the Department of Homeland Security has changed the historical funding formula that supports DES offices and personal services at both the state and county level. Under the proposed federal budget, personal service expenditures of emergency management funding would be capped at 25%. Historically, both the Montana DES and county DES coordinators have used up to 66% of these funds to support personal service costs. Under the proposed formula, the reduction of federal emergency management funds would result in large unfunded personal services costs in the state and in the counties, thereby shifting these costs to the general fund.

The Legislative Finance Committee will ask the Montana congressional delegation to offer amendments that would eliminate the 25% personal services cap and to restore an equitable proportion of federal homeland security funds to Montana programs.

For more information about homeland security and hazards emergency management, contact Alan Peura at (406) 444-5387 or apeura@mt.gov.

Business Process Reviews... Staff presented a report on the laws for reviewing agency business processes. The report included options on how the committee could provide more structure and regularity of business process reviews. The committee voted to direct staff to include a study of business process reviews in the Legislative Fiscal Division work plan for the 2005 interim. For further information, contact Greg DeWitt at (406) 444-5392 or gdewitt@mt.gov.

Update on Information Technology Major Projects... Jeff Brandt, the acting state chief information officer, gave an update on the status of major information technology projects. Brandt said that the Department of Revenue project to replace the Process Oriented Integrated Tax System is ahead of schedule and under budget. The committee discussed with Brandt and Budget Director Chuck Swysgood the feasibility of continuing with additional phases of the project with funding saved in the current project.

Brandt said that two projects bear watching: 1) the judiciary court automation project is at risk because of slower than expected revenue collections needed to fund the project; and 2) a Department of Labor and Industry project to move unemployment insurance claims to the Internet is experiencing requirement volatility and still needs key decisions regarding the project's scheduling.

All other projects are proceeding without any concerns. For further information, contact Greg DeWitt at (406) 444-5392 or gdewitt@mt.gov.

## ENVIRONMENTAL QUALITY COUNCIL

EQC and Subcommittees to Meet in July... The Environmental Quality Council will meet in Helena on Monday and Tuesday, July 19 and 20. The EQC subcommittees will meet Monday morning, and the EQC will meet Monday afternoon and on Tuesday in Room 152 of the state Capitol.

Council to Consider Water Rights Fees, Grants, and Water Quality... The EQC established a water rights adjudication funding working group at its May meeting. The working group nixed the idea of a variable use fee and instead is considering a graduated flat fee that would be assessed against all water rights in Montana. The fee would be assessed against water rights claims subject to adjudication as well as to water rights that have been obtained since 1973. The working group will present its findings to the EQC on July 20.

The Department of Natural Resources and Conservation will give an update on the Renewable Resource Grant and Loan Program on July 19. The department is statutorily required to report to the EQC on the program once a biennium. The update will include a review

of grant and loan applications that have been received and the status of DNRC's priority ranking. The 2005 Legislature will make the final decisions for funding.

A panel, with representatives of state agencies, private associations, and the federal government, will discuss Montana's Total Maximum Daily Load (TMDL) program. For the uninitiated, TMDL is the sum of pollution allocations for individual point sources, nonpoint sources, and natural sources that is established at a level necessary to comply with surface water quality standards. The panel will discuss the time line for completion of TMDLs, the entities responsible for conducting the TMDLs, how the TMDLs will be completed in the future, and how public involvement will be part of the process. The Department of Environmental Quality will present an update on the Tongue River TMDL and negotiations between Montana and Wyoming regarding water quality.

The EQC will discuss the implementation of a mandatory on motion policy at the water court along with proposals from the adjudication funding working group. The EQC will also review public comment that was received on the draft House Joint Resolution 4 study report. Comments were due on June 30. For further information on water policy, contact Krista Lee Evans at (406) 444-1640 or kevens@mt.gov.

EQC staff will present reports on the status of metal mine reclamation bonding in Montana and on the status of water treatment and reclamation at the abandoned Zortman and Landusky gold mines.

An EQC working group chaired by Sen. Bob Story will report on the permitting of artificial ponds in Montana.

Energy Policy Subcommittee...The Energy Policy Subcommittee's draft interim report, including draft recommendations and draft legislation, has been available for 30-day public comment period that ended June 30. The

subcommittee will meet July 19 in Room 137 of the Capitol. For more information about the subcommittee, contact Todd Everts at (406) 444-3747 or teverts@mt.gov.

Agency Oversight Subcommittee...The Agency Oversight Subcommittee will meet at 8 a.m., July 19 in Room 152 of the Capitol. For further information, see the EQC website or contact Larry Mitchell, staff, at (406) 444-1352 or lamitchell@mt.gov.

Minutes of past meetings, draft meeting agendas, draft reports, and additional information about the Environmental Quality Council are available on the EQC website or by calling (406) 444-3742, or by emailing eqc@mt.gov.

## TIME AND TIDE

<u>Event</u>	<u>Days remaining</u>
Target date for completion of interim committee work (September 15, 2004)	77
General election (November 2, 2004)	125
59th Legislature convenes (January 3, 2005)	187

THE BACK PAGE

FUEL FOR THE FIRE  
WHAT'S DRIVING GAS PRICES?

By Leanne Kurtz  
Legislative Research Analyst

It was the conversation I dreaded most at family gatherings and it was the conversation that inevitably occurred, no matter what else was going on in the family or in the world. "President Nixon just resigned, but what'd you pay for gas in Missoula?" "Americans have been taken hostage in Iran, but what kind of mileage did you get with that thing?" "Grandma just qualified for the Ironman, but gas is two cents less in Billings than it is in Laurel." I thought it was such a pointless discussion. You need gas, you pay for it, and you move on. End of story. However, now that I am the one paying for it and now that gas for much under \$2 a gallon has probably gone the way of the Oldsmobile, the subject has suddenly become more compelling.



For most of us, gas prices are kind of like the weather. You can kibbitz and moan and wring your hands all you want to no avail.

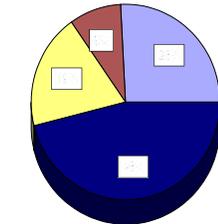
Compounding the helpless feeling is the notion that these prices seem so arbitrary -- thoughtlessly manipulated by nameless, faceless, wealthy people with grand palaces and servants and swimming pools surrounded by swaying palm trees half a world away. But is it really that arbitrary? And is it really that expensive? With the pace of technology and an army of smart chemists and physicists applying themselves, how much longer will we have to rely on gasoline to get us from Point A to Point B? There is much more behind the retail price of gasoline than meets the eye and I'm sure much more than my relatives ever considered (or ever wanted to consider) during those interminable conversations around

the Thanksgiving table.

CRUDE AND TAXES AND REFINING, OH MY

The price of oil is responsible for the bulk of the price consumers pay at the pump for a gallon of gasoline. Other components are state and federal taxes, processing at the refinery, and distribution and marketing. The percentages attributable to the various components differ regionally and change as oil prices, costs of refining and costs of marketing and distribution fluctuate. The chart reflects a February, 2004, snapshot of the components as reported by the U. S. Department of Energy's Energy Information Administration.

Components of Retail Gas Price



- Taxes
- Distribution and Marketing
- Refining
- Crude Oil

A change in any of these components can directly impact the price of gasoline, as do the forces of U.S. and global supply and demand. Each of these factors is explored in the paragraphs that follow.<sup>1</sup>

CAESAR'S RENDERING

Both the federal and state governments exact their share of the price paid at the pump. Federal taxes are imposed on the oil companies or wholesalers and are passed on to the consumers. Congress first imposed a federal tax on gasoline in 1932 and all of the revenue from the 1 cent per gallon charge was deposited in the general fund to offset a budget imbalance. The 1956 Highway Revenue Act established the Highway Trust Fund and required that all gas tax revenue be deposited into that account to finance a ramped up interstate highway program. Since October 1997, the federal tax has been 18.4 cents per gallon of fuel and revenue is distributed among the Highway Trust Fund, a Mass Transit Account (established in 1983), and the Leaking Underground Storage Tank Trust Fund. Revenue from taxes collected on truck tires, sales of trucks and trailers, and heavy truck user fees also end up in the federal Highway Trust Fund.

The U.S. Department of Treasury collects the taxes and reports its collections to the Federal Highway Administration (FHWA), but the Internal Revenue Service does not track how much fuel is used by consumers in each state. States report to FHWA on the gallons of fuel taxed and other

<sup>1</sup>This analysis is specific to gasoline. The cost components, tax rates, and supply and demand considerations for diesel, ethanol, and other special fuels are not considered.

relevant data and that information is subject to a complex process for determining how much of the Highway Trust Fund is attributable to on-highway use in each state. Statutory formulas then dictate the distribution of funds to the states.<sup>2</sup>

The state of Montana imposes a gasoline license tax of 27 cents per gallon<sup>3</sup> on every gasoline distributor which is also passed on to the consumer.<sup>4</sup> The Department of Transportation administers the tax but the Montana Constitution is clear on how the revenue must be used. Article VIII, section 6 provides:

**Section 6. Highway revenue non-diversion.** (1) Revenue from gross vehicle weight fees and excise and license taxes (except general sales and use taxes) on gasoline, fuel, and other energy sources used to propel vehicles on public highways shall be used as authorized by the legislature, after deduction of statutory refunds and adjustments, solely for:

(a) Payment of obligations incurred for construction, reconstruction, repair, operation, and maintenance of public highways, streets, roads, and bridges.

(b) Payment of county, city, and town obligations on streets, roads, and bridges.

(c) Enforcement of highway safety, driver education, tourist promotion, and administrative collection costs.

(2) Such revenue may be appropriated for other purposes by a three-fifths vote of the members of each house of the legislature.

According to the Legislative Fiscal Division, gasoline tax revenue deposited in the Highway State Special Revenue Account was \$131.73 million in fiscal year 2002 and \$131.27 million in fiscal year 2003.

Section 15-70-101, MCA, and Title 60, chapter 3, part 1, MCA, dictate use and distribution of gasoline tax revenue. Section 15-70-101, MCA, requires the Department of Transportation to allocate \$16.8 million of the revenue generated from gasoline and vehicle fuels taxes to local governments in amounts derived from formulas that use population, road mileage, and land area data. Section 60-3-201, MCA, specific to the gasoline dealers' license tax (not the tax on special fuels), requires allocation of a small portion of the revenue to the state park account, a snowmobile account, an off-highway vehicle account, and

the aeronautics revenue fund.<sup>5</sup>

The remainder of the revenue is to be used for collection of the taxes, highway maintenance, and for the enforcement of the Montana highway code.<sup>6</sup>

### REFINERY TO RIG

Distribution and marketing account for anywhere from 9% to 18% of the price paid at the pump for a gallon of gasoline. Retailer dealer costs and profits are also factored into this figure. In an article in the October 15, 2001, issue of *Oil and Gas Journal*, marketing is defined as "the segment of the business that takes product from the refinery gate to the retail customer" and continues to explain that "[m]arketing provides the services and covers the costs of breaking the bulk shipments from a refinery into smaller sales, to the point of ultimate sale to the consumer at the retail pump."

Typically, gasoline is shipped via pipeline from the refinery to terminals where it is then loaded onto trucks or rail cars for delivery to individual stations. Costs involved in this process include costs to the pipeline operators, including labor, maintenance and administration, costs to the trucking firms that deliver the gasoline, and individual gas station owners' operating costs. Other factors that influence costs associated with this component are the distance from refineries to retail outlets and the level of competition in local markets.

### KING OIL

When it comes to influencing the price of gasoline, oil is king. But it is a limited resource, subject to the winds of politics and war. And no one knows that better than the United States, Japan, and China.<sup>7</sup> The Energy Information Administration reports that in 2002, the United States consumed 7.2 billion barrels;<sup>8</sup> Japan and China each consumed 1.9 billion. In 2002, the United States imported 17% of its oil from Saudi Arabia; 16% from Mexico; 16% from Canada; 13% from Venezuela; 6% from Nigeria; 5% from

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<sup>5</sup>In addition to specifying the percentages allocated to the various programs, section 60-3-201, MCA, is clear about how that money may be used by the programs.

<sup>6</sup>The Montana Highway Patrol Division receives the bulk of its funding (FY 2002 base funding was \$16,614,943) from gasoline tax revenue and gross vehicle weight fees that are deposited in the Highway State Special Revenue Account.

<sup>7</sup>In 2003, China saw a 70% increase over 2002 in the number of cars purchased and China's crude oil imports grew 36% in 2003 (Energy Information Administration).

<sup>8</sup>This figure includes the use of oil for other hydrocarbon-based products, not just fuel, but fuel is easily the most common use. Other products derived from oil include makeup, toys, shoes, fabrics, toothpaste, deodorant, and the wide range of products made with plastics.

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<sup>2</sup>Information regarding disposition of federal fuel tax revenue is derived from: "Attribution and Apportionment of Federal Highway Tax Revenues: Process Refinements", Center for Transportation Analysis, Oak Ridge National Laboratory, February, 2002.

<sup>3</sup>State taxes average about 20 cents per gallon, according to the Energy Information Administration (U.S. Department of Energy).

<sup>4</sup>In addition to the 27 cent tax, there is a .75 cent per gallon fee imposed to fund petroleum storage tank cleanup.

Iraq; and the remaining 27% from other sources. Lately, the price per barrel<sup>9</sup> of oil has been hovering around \$40, which seems expensive, given that prices have averaged around \$20 per barrel (in today's dollars) for most of the 20th Century.<sup>10</sup> But considering that by 1981, crude oil prices had risen to more than \$70 per barrel (in today's dollars), \$40 isn't looking too bad. Tim Appenzeller, writing for the June, 2004, issue of *National Geographic* magazine, gives a short

### **The Strategic Petroleum Reserve**

One result of the 1973 oil embargo and domestic oil shortage was the government's establishment in 1975 of the Strategic Petroleum Reserve. Stored 2,000 feet underground in salt caverns along the Gulf of Mexico are about 570 million barrels of crude oil intended to keep America running in the event of a sudden disruption in supply.

Oil from the Reserve was used in 1991 during the Persian Gulf War

history of the 1970s oil shortage that led to the price hike. In response to Washington's support of Israel in the 1973 Mideast war, Arab leaders imposed an oil embargo on the United States. Appenzeller reports, "[f]ields at home could not make up the difference. Gas lines grew and prices soared, giving Americans their first lesson in the fragility of oil

supplies. The speed limit was dropped to 55 miles an hour to save fuel, and sales of thrifty Japanese and European cars surged. The 1978 revolution in Iran cut off that country's oil exports and triggered a second oil shock."<sup>11</sup>

By the mid 1980s, new fields in Alaska, Mexico, and the North Sea were contributing to the production of more than enough oil to satisfy the world's thirst and prices dropped to less than \$25 per barrel. Recent events such as the sabotage of pipelines and oil fields in the Middle East and political instability in the Middle East and Venezuela, combined with steady growth in demand have once again driven prices up, although nothing close to what was being paid in 1981--yet.

Production decisions made by the Organization of Petroleum Exporting Countries (OPEC)<sup>12</sup> also directly impact the price of oil. According to its website, OPEC members supply about 40% of the world's oil output and possess more than 75% of

the world's total revenues are so vital to the economic development of [member] nations," reads an excerpt from the website, "they aim to bring stability and harmony to the oil market by adjusting their oil output to help ensure a balance between supply and demand." Twice a year, or more often if necessary, OPEC member nations' Oil and Energy Ministers meet to determine production levels. One doesn't need a PhD in Economics to understand that unchecked global demand, the finite nature of the resource, and limited production in other countries conspire to yield a tremendous amount of power to a handful of Oil Ministers.

proven crude oil reserves. "Since oil

### **Texas Tea ... Canadian Coffee?**

On a hot day, a visitor to Fort McMurray in Northeastern Alberta probably feels as though he has been deposited in the middle of the world's largest parking lot. When the sun beats down on the vast tar sands near this town on the Athabasca River, the resulting acrid odor is predictably reminiscent of fresh asphalt. The tar, mixed with sand and visible as black veins lining riverbanks and streambanks, is what's left of underground crude oil that found its way to the earth's surface and was degraded along the way by bacteria and water. It is a herculean feat to turn the tar into high-quality oil but the Alberta provincial government and Shell Canada, among others, are willing and able. To produce a single barrel of oil, two tons of sand must be scooped, transported, heated, and washed and the resulting "clean" tar must be cooked at high enough temperatures to break down the tar molecules. Alberta estimates that the tar sands hold 1.6 trillion barrels of potential. Separating the tar from the sand and turning the tar into oil is enormously labor-intensive, consumes immense amounts of water, electricity, and natural gas and is a destructive process, but given the world's thirst for oil and the uncertain future of the oil-rich Middle East, the 15,000 square miles of Alberta tar sands are becoming more attractive to companies and investors all the time.

### **REFINING**

Some industry experts blame the rise in gas prices not exclusively on oil production quotas set by OPEC, but on a shortage of domestic refineries. According to the National Conference of State Legislatures, 150 refineries are operational in the United States today, compared to 300 in 1980. Lawrence Goldstein, president of the Petroleum Industry Research Foundation, was interviewed for an article appearing in the *Chicago Tribune* (reprinted in the June 8, issue of the *Akron Beacon Journal*). Goldstein said there is no spare refining capacity in the United States, which throws off the usual supply and demand balancing act. He told the *Tribune* reporter that before the number of refineries dropped off, refiners could respond to a rise in gasoline prices by escalating production, which would eventually lead to lower prices. With fewer functioning refineries, Goldstein claimed, that ability is gone. According to the American Petroleum

<sup>9</sup>A barrel contains 42 gallons of oil.

<sup>10</sup>"Oil Price History and Analysis", WTRG Economics, www.WTRG.com.

<sup>11</sup>"The End of Cheap Oil", National Geographic, June 2004, p. 89.

<sup>12</sup>Member countries are Algeria, Indonesia, Iran, Iraq, Kuwait, Libya, Nigeria, Qatar, Saudi Arabia, the United Arab Emirates and Venezuela.

Institute, a new refinery costs \$1 billion to construct and takes 10 years to complete.

Refining costs are responsible for about 13% to 19% of the price of gasoline and basic refining costs range from 50 cents to \$3 a barrel. When it arrives at the refinery, crude oil contains water, salt, sand, dirt, and hundreds of different kinds of hydrocarbons.<sup>13</sup> The impurities must be washed out and hydrocarbons must be separated through a process of distillation that takes advantage of the various boiling points of the different hydrocarbon chains. The kind of hydrocarbon determines how the finished product may be used. Other chemical technologies are also used to alter hydrocarbon chains and the products of those processes are blended to create gasoline of various grades, other fuels, heating oil, and chemicals for making plastics.

Environmental laws and regulations also influence the cost of refining. Refineries must comply with clean air and clean water standards during the refining process and they must produce fuels that meet emissions standards. As a result of studies of the effectiveness of emissions controls in newer vehicles and conclusions that those controls do not function well with gasoline and diesel that contain certain levels of sulphur, the Environmental Protection Agency is mandating that by 2005, the country's large oil refiners must reduce the sulphur content in the gasoline they produce by 90%. A similar mandate applies to the sulphur content in diesel.

The latest news is that gas prices have fallen slightly but most experts are not anticipating steep drops or long-term relief and nobody predicts global demand for oil slacking anytime soon.

At the heart of the matter is whether the appropriate next steps are to escalate oil exploration and production in North America, Russia,<sup>14</sup> Mexico, and the deep ocean or to implement conservation measures and invest in the development of new technologies and alternative fuels. George Bush and John Kerry will slug it out on this subject in the months to come but ultimately, the resource itself--what remains of it--will determine our future. For its June 14, 2004, edition, *Time* magazine interviewed T. Boone Pickens, a Texas oilman and investor, about gas prices and the future of the hydrocarbon industry. When asked if he believed the "Gasoline Age" would become a relic of the past, like the Stone and Bronze Ages, Pickens replied, "We'll be out of the hydrocarbon era before we get to 2100. We'll phase in other forms of energy by 2050. We've got to use hydrogen someplace in there. . . . I would suppose we'll go back to looking seriously at nuclear."

As the summer heats up and more and more families hit the open road, chances are that millions of kids will look up long enough from their Playstations (made with plastics derived from oil) to yawn and roll their eyes at their parents' endless boring conversations about gas prices. But there's so much more to the subject than the few cents' difference at that Exxon down the street. If they only knew. Nah, they'd still be bored.

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<sup>13</sup>Hydrocarbons are molecules that contain hydrogen and carbon. They take many different forms and come in a wide variety of lengths and structures.

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<sup>14</sup>Russia has about 60 trillion barrels in proven reserves, compared to 78 trillion in Venezuela, 261 trillion in Saudi Arabia, and 23 trillion in the United States.



# INTERIM CALENDAR

UNLESS OTHERWISE SPECIFIED, ALL ROOM DESIGNATIONS ARE IN THE CAPITOL

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
<p>July 2004</p>						
				<p>1 Economic Affairs Committee, Room 137, 9 a.m.</p>	<p>2</p>	<p>3</p>
<p>4</p>	<p>5 Holiday</p>	<p>6</p>	<p>7 Postsecondary Education Policy and Budget Subcommittee meeting with Board of Regents, Pablo, MT</p>	<p>8</p>	<p>9 Revenue and Transportation Committee, Room 137, 8 a.m.</p>	<p>10</p>
<p>11</p>	<p>12</p>	<p>13</p>	<p>14</p>	<p>15</p>	<p>16</p>	<p>17</p>
<p>18</p>	<p>19 EQC Agency Oversight Committee, Room 152, 8 a.m.  EQC Energy Policy Subcommittee, Room 137, 8 a.m.  Environmental Quality Council,</p>	<p>20 Environmental Quality Council, Room 152</p>	<p>21</p>	<p>22</p>	<p>23</p>	<p>24</p>
<p>25</p>	<p>26</p>	<p>27</p>	<p>28</p>	<p>29</p>	<p>30</p>	<p>31</p>

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
August 2004						
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19 Economic Affairs Committee	20 Economic Affairs Committee (tentative)	21
22	23	24	25	26	27 Children, Families, Health and Human Services Committee	28
29	30	31				

**COMING IN SEPTEMBER**

September 9-10, Energy and Telecommunications Committee

September 9-10, Revenue and Transportation Committee

September 14-15, Education and Local Government Committee

September 20-24, Legislators Back to School Week

September 22, Montana Heritage Commission, Virginia City

September 28, Legislative Audit Division

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LEGISLATIVE SERVICES DIVISION  
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