

---



---

# THE INTERIM

---



---

APRIL 2002

HELENA, MONTANA

VOL. XIII NO. 11

## LEGISLATIVE IMMUNITY UPHELD IN COURT

On February 6, 2002, U.S. District Court Judge Donald Molloy dismissed the case of **Single Moms, Inc., et al. v. Montana Power Company, et al.** The suit was filed in May 2001 in federal District Court in Butte by a coalition of single mothers against Montana Power Company, Pennsylvania Power & Light, NorthWestern Corporation, PanCanadian, Continental Energy, and Joe Quilici and 57 other 55th legislative session members of the House of Representatives and Fred Thomas and 24 other 55th legislative session members of the Senate, all individually and not in their official capacity as members of the 1997 legislative session (all legislators who voted for SB 390 and SB 396, the 1997 energy utility restructuring legislation). Plaintiffs alleged violations of federal civil rights statutes and the federal and state constitutions.

Plaintiffs claimed that MPC's expenditure of \$70,615 on lobbying for passage of the 1997 deregulation bills amounted to a civil rights violation under federal law, apparently claiming that this was a usurpation or corruption of state power. Plaintiffs sought relief in the form of an injunction against MPC forbidding the disconnection of any gas or electrical services and compelling a report to the State Auditor of all disconnected customers, the return of \$67.8 million to MPC customers from PP&L, the voiding of all sales under the 1997 utility deregulation, and damages for pain and suffering and economic losses. The court stated that MPC neither usurped nor corrupted state power by expending money on lobbying efforts and that MPC neither deprived plaintiffs of a federally guaranteed right nor acted under color of state law.

The suit against the legislative defendants was dismissed on the grounds of legislative immunity. Quoting prior holdings, the court stated that "Legislators enjoy immunity from prosecution when acting in their capacity as lawmakers. 'These [immunities] are thus secured, not with the intention of protecting the members against prosecutions for their own benefit, but to support the rights of the people, by enabling their representatives to execute the functions of their office without fear of prosecutions, civil or criminal.'" Each defendant's Motion to Dismiss, including the legislators', was granted, and the entire suit was dismissed by the court's order. The court stated that shutting off power for failure to pay power bills does not reach any enumerated fundamental right

under the Montana Constitution. The suit was defended on behalf of the legislative defendants by Chris Tweeten of the Attorney General's office, with assistance on legislative immunity issues by Greg Petesch and Valencia Lane of the Legislative Services Division.

## TVMT UPDATE: AN IMAGE OF SAFETY

Combining Security and Openness...The TVMT project is linking up with the chief of capitol security to assess the feasibility of a joint venture with mutually beneficial results. Last month, a team of professional consultants took a serious look at what kind of video surveillance system would simultaneously enhance the security of the state capitol building and the quality of C-Span style programming during future legislative sessions. The consultants' report on the technology components is imminent.

This "systems integration" approach would be achieved through a common pool of infrastructure and associated funding sources. The overarching goal is a citizen-friendly, cost-effective merger of public safety and public information services and capabilities that would sustain open government and reduce security risks simultaneously. Related goals include:

- ? maximizing the means of technological surveillance for security purposes;
- ? improving the quality and comprehensiveness of unfiltered television coverage of government proceedings in the capitol building; and
- ? achieving the above goals with unobtrusive technology to minimize interference with legislative processes and to ensure continued ease of public access to the capitol and the activities therein.

How it Could Work...By combining an array of color and black and white digital cameras, one video acquisition system can serve two purposes at the same time. The cost savings could be considerable, especially if high-end digital surveillance cameras can generate broadcast quality images. Camera control and various recording media (tapes, disks, CD-ROMS) could be kept separate, except for the periods of time during which security needs would supersede TV broadcasting. For example, with the flick of a switch, all the cameras in the capitol could feed the TVMT headend for delivery to TV and Internet viewers. At the close of each business day (during a legislative session), control of the cameras would be switched to the surveillance crew, who would then have observation access to hearing rooms and House and Senate chambers in addition to hallways, the rotunda, and other public areas of the building.

Feasibility...This approach is contingent on several interrelated factors, including:

- ? adequate funding on a cost-shared basis;
- ? interagency and interbranch cooperation;
- ? well-engineered technical interconnections of various cameras, hardware, software, and control mechanisms;

- ? attainment of broadcast quality audio/video signals to ensure TV distribution; and
- ? effective information management to preserve end product integrity for different uses.

The proposed pooling of resources may result in a cost-effective solution for meeting the legislative mandate for an "open window" on state government and for the compelling need for a safe, secure, and visitor-friendly working environment in the state capitol. Expanded surveillance capabilities in critical spaces will ensure the transparency of government proceedings and public activity alike.

## LAW AND JUSTICE COMMITTEE

Committee Goes to Court (to observe)...The Law and Justice Interim Committee (LJIC) met in Helena on March 28 and 29. Items on the agenda included: the regular reports from the Judiciary, the Attorney General and Department of Justice, and the Department of Corrections, and a briefing by Ed Smith, Clerk of Supreme Court, on the compilation and reporting, as required by 46-18-604, MCA, of certain sentencing information from district courts. The committee also observed the oral arguments in re **Stavenjord v. Montana State Fund and Prairie Nest Ranch** which were made before the Supreme Court.

The committee also discussed the state's "sentencing and corrections policy" incorporated in Article. II, sec. 28, of the Montana Constitution, and in 46-18-101, MCA. The Committee was briefed on and discussed the state's criminal justice and corrections data bases and IT systems. At press time, the March meeting was in progress. Look to next month's issue of **THE INTERIM** for details about the meeting and committee action or contact the Legislative Services Division.

Committee to Meet in June...The LJIC's next meeting is scheduled for **Monday and Tuesday, June 3 and 4** in Helena. In addition to the regular reports, the committee will preview legislation that may be requested by the Judiciary, the AG/DOJ, or the DOC.

For more information about the committee's activities, contact Dave Bohyer at (406) 444-3064 or by e-mail at [dbohyer@mt.gov](mailto:dbohyer@mt.gov), or Chairman Rep. Gail Gutsche in Missoula at (406) 728-0566.

## ENVIRONMENTAL QUALITY COUNCIL

Environmental Quality Council to Meet in May...The EQC will meet Thursday, May 9 at 8 a.m. in Room 102, state capitol. Tentative agenda items include a briefing from Canyon Resources officials, DEQ representatives, and local landowners on the status of the closure and remediation of the Kendall gold mine north of Lewistown; an update on the Public Service Commission's review of the default energy supply portfolio; and a regional energy overview. Subcommittee activities are set out below.

Minutes from previous meetings, EQC and subcommittee work plans, agendas, and press releases may be found on the EQC website at <http://leg.mt.gov/services/lepo/index.htm>. If you have any questions or would like additional information or to be placed on the EQC interested persons mailing list, contact the EQC office at (406) 444-3742 or [mtheisen@mt.gov](mailto:mtheisen@mt.gov). **Please note that the EQC has changed the July meetings from July 25 and 26 to July 29 and 30.**

Coal Bed Methane/Water Policy Subcommittee...The subcommittee will meet on May 8 at 11 a.m. in Room 102, state capitol. Department of Environmental Quality staff will discuss the draft general permit for water produced from coal bed methane wells. The proposed permit is being circulated for public comment. The proposed permit would address discharges of coal bed methane water to impoundments for livestock or wildlife watering. Discharges to state waters would not be allowed under the proposed permit. The Reserved Water Rights Compact Commission will provide an overview of existing water compacts in the state and a review of proposed compacts. For more information, contact subcommittee staff:

- Coal Bed Methane -- Mary Vandenbosch at (406) 444-5367 or by e-mail at [mvandenbosch@mt.gov](mailto:mvandenbosch@mt.gov).
- Water Policy -- Krista Lee Evans at (406) 444-3957 or by e-mail at [klee@mt.gov](mailto:klee@mt.gov).

Agency Oversight/MEPA Subcommittee .... The Agency Oversight/MEPA Subcommittee will meet Wednesday, May 8, in Room 152 of the state capitol. Work plan topics include continuing work on and oversight of the implementation of the Montana Environmental Policy Act (MEPA) and a review of state efforts involving the cleanup of pollution from underground storage tanks. Other topics may be added to the agenda in April.

For more information about the subcommittee's activities go to the EQC website or contact Larry Mitchell, subcommittee staff, at (406) 444-1352 or e-mail [lamitchell@mt.gov](mailto:lamitchell@mt.gov).

Energy Policy Subcommittee ... The EQC Energy Policy Subcommittee will meet May 8. The subcommittee will review two energy publications -- *The Montana Energy Law Handbook* and the *Status of Energy in Montana*. These subcommittee publications will be available for a 30 day public comment period in June. Other agenda items include a presentation on the initiative petition (I-145) to purchase dams in the state and an overview of public power.

For more information contact Todd Everts at (406) 444-3747 or by e-mail [teverts@mt.gov](mailto:teverts@mt.gov)

## LEGISLATIVE FINANCE COMMITTEE

Legislative Finance Committee (LFC) Meets in March...Reports from the March meeting are available on the Legislative Fiscal Division (LFD) website at

http://leg.mt.gov/fiscal/index.htm. For more information about the meeting, or for a copy of a report, contact the LFD at cschenck@mt.gov or at (406) 444-2986. Highlights of the meeting follow.

General Fund Revenue Trends and Ending Fund Balance...Based on data through the end of February 2002, general fund revenue collections continue to show signs of weakening growth rates. Sources of revenue that are below expectations are individual income taxes, property taxes, treasury cash account interest, common school interest and income, tobacco settlement payments, and investment license fees. Other sources of revenue that will begin to show declining growth rates within the next quarter are oil and gas production taxes, metalliferous mines taxes, and, potentially, coal trust interest earnings.

The 2001 Legislature estimated that the ending fund balance for the 2003 biennium would be \$53.8 million. However, a variety of factors indicate that the ending fund balance will be less than expected. The table below shows the estimated ending fund balance as well as incremental increases and decreases that contribute to a revised ending fund balance of \$21.4 million for the 2003 biennium.

<b>Legislative Fiscal Division</b>	
<b>2003 Biennium General Fund Outlook</b>	
In Millions	
<b>Ending Fund Balance - End of 57th Legislature</b>	<b>\$53.8</b>
Fiscal 2001 Net Impact Improvement	62.7
Adjustment to Fiscal 2001 Balance	( 0.6)
Continuing Appropriations	( 2.3)
Potential Revenue Shortfall 2003 Biennium	(63.2) 1
Public School & Other Reversions	5.9
Federal Tax Relief Act	13.3
Federal Economic Stimulus Bill	(34.7) 2
Forest Fires & Terrorism Costs - Net	(13.5)
Supplementals	<u>???</u>
<b>Potential Ending Fund Balance</b>	<b>\$21.4</b>
1 Assumes fiscal 2002 shortfall continues into fiscal 2003	
2 Preliminary estimate from Center on Budget & Policy Priorities	

For further information about the state general fund, contact Terry Johnson at tjohnson@mt.gov or (406) 444-2952.

Department of Corrections Budget Status...The inmate population in all secure facilities are exceeding projections used by the 2001 Legislature in appropriating funds for

this fiscal year. Based on expenditures through January 2002, there may be a \$0.5 million general fund shortfall in fiscal year 2002. The appropriation for contracted beds in fiscal year 2003 is \$2 million less than was appropriated in fiscal year 2002. After the DUI Unit has been operational for several months, an analysis of whether cost savings will be realized and any impact on inmate populations will be presented to the committee. This information should help the committee decide whether there will be sufficient funds for fiscal year 2003. For further information, contact Lorene Thorson at lthorson@mt.gov or (406) 444-5387.

Wildfire Funding Issues...As of the March meeting, Department of Natural Resources and Conservation's forest fire suppression costs in fiscal year 2002 are estimated at \$12.6 million, or \$2.7 million more than was reported to the committee in December. Most of the increase results from a more accurate estimate of the federal forest service bill. Another reason for the increase is that additional state protection costs have been recorded on the state's accounting system. These changes are expected as a fire season ends and the bills become finalized.

To help pay for fiscal year 2002 fire costs, the department intends to use fiscal year 2003 general fund spending authority from the operating budget of the Water Resources Division. Under a budget change document, the department would transfer \$2 million of fiscal year 2003 general fund spending authority from the Water Resources Division to the Forestry Division. That amount would then be moved from fiscal year 2003 to fiscal year 2002 to be used by the Forestry Division to pay for fiscal year 2002 fire costs.

In addition, the LFC was presented with several alternatives related to funding of wildfire suppression. It was recommended that the committee look at alternatives to the current funding methods. The committee directed staff to examine the alternatives. For further information, contact Gary Hamel at gahamel@mt.gov or (406) 444-5347.

DPHHS Budget Status Report...Staff presented a report on the 2003 biennium budget status of the Department of Public Health and Human Services. The report raised the following issues:

- a continuing projected general fund short fall of \$6 to \$7 million despite implementation of changes anticipated to reduce biennial general fund costs by \$9.9 million;
- an additional shortfall of about \$1.3 million in state matching funds for the Child Support Enforcement Division despite reductions in expenditures of state special revenue totaling \$0.4 million over the biennium;
- the potential to offset some of the general fund shortfall by implementing a targeted case management group for foster care children;
- additional cost saving measures being considered by the executive include continuing and/or further provider rate reductions and Medicaid eligibility and/or service reductions;
- DPHHS's plan to use \$2.7 million general fund "freed up" in the developmental disabilities program due to refinancing efforts;

- reduction in Families Achieving Independence in Montana (FAIM) Phase IIR line items by an additional \$8.8 million, reducing the FAIM Phase IIR line items to \$18 million.

Growth in Medicaid costs, due to an increase in the number of persons eligible for and higher utilization of services, is the primary reason for projected general fund shortfalls. The committee requested that the governor's budget office review general fund cost saving measures identified by staff and respond within 30 days as to whether the measures would be implemented. For further information, contact Lois Steinbeck at lsteinbeck@mt.gov or (406) 444-5391, or Pat Gervais at pgervais@mt.gov or (406) 444-1795.

Proposed Reduction of Federal Funds for Highways... Staff discussed the impact to Montana of a proposed reduction of federal funding for highways. The reduction is contained in the president's federal fiscal year 2003 budget and is the result of a provision in the federal highway funding authorization that links Highway Trust Fund receipts to funding levels. If the reduction is adopted, Montana would receive \$66 million less than it did in federal fiscal year 2002. Congressional support for the reduction is not strong. For further information, contact Greg DeWitt at gdewitt@mt.gov or (406) 444-5392.

Internal Service Fund Rate Setting... Committee staff presented two recommendations for dealing with internal service fund rate requests for fees and charges that are different than those billed to customers. These recommendations were deferred from the December 2001 committee meeting. After hearing a presentation of the staff report and agency concerns, the committee concurred that the process should remain as it was during the 2001 legislative session. This decision would not restrict agencies from requesting rates that are structured differently than those billed to customers, including the use of working capital as a rate. It would also not restrict staff from raising issues with rate structures during the analysis of the executive branch budget. For further information, contact Greg DeWitt at gdewitt@mt.gov or (406) 444-5392.

State Assumption of District Court Costs ... Senate Bill 176 (Ch. 585, L. 2001), enacted during the 2001 legislative session, provided for the state assumption of district court costs. State assumption of district court costs will occur on July 1, 2002. The new law provides that the Supreme Court is responsible for:

- administering the district courts;
- allocating the fiscal year 2003 budget;
- requesting the 2005 biennium budget; and
- creating and maintaining a judiciary branch personnel plan (including classification and compensation of employees).

Chief Justice Karla Gray, Court Administrator Rick Lewis, and Administrative Services Director Lisa Smith briefed the committee on fiscal issues of state assumption and identified several issues for the committee to consider:

- There is uncertainty of future costs of certain functions assumed by the state, including youth court and involuntary commitment proceedings.

- The court expressed concern about the level of the fiscal year 2003 appropriation but said that it was not contemplating a supplemental request and intended to stay within its appropriation. The court said that "increases will be necessary for the 2005 biennium..."
- Costs of some district court employees were not included in the appropriation.
- Costs for information technology and rent were not contemplated in the appropriation to the Supreme Court to administer the program.

Salaries of some district court employees were adjusted prior to state assumption. For further information, contact Taryn Purdy at tpurdy@mt.gov or (406) 444-5383.

PRO-Files Update... The development of the Department of Correction's database management system is progressing slowly. Until all of the information captured by the department's prior system (ACIS) is replaced by PRO-Files, the two systems will run in tandem. Separate software programs have allowed the department to more easily extract data from the systems and produce reports. The PRO-Files system captures offender demographics and provides an online risk and needs assessment for use by probation and parole officers. Some of the critical data that would enable the Legislature to make decisions on where resources are most effective in impacting correction populations is still not available. The ability of the system to provide data for outcome measures will help the Legislature to make policy decisions on ways to impact populations. For further information, contact Lorene Thorson at lthorson@mt.gov or (406) 444-5387.

Information Technology Policies... The 2001 Legislature directed the Legislative Finance Committee to monitor and provide oversight of information technology policies of the Department of Administration during the interim. The committee adopted a process for interacting with key participants involved with this new role. Montana's Chief Information Officer presented the *State of Montana Strategic Plan for Information Technology, 2004-2005*. This is the first statewide information technology strategic plan developed under the Montana Information Technology Act (SB 131, Ch. 313, L. 2001). After being briefed on the plan and the plans of the Department of Administration to address legislative concerns for the management of information technology, the committee concurred, for the most part, with the strategic directions contained in the plan. The statewide strategic plan establishes the direction and constraints for agencies to develop strategic information technology plans, which will be linked to the agency budget requests for information technology. The statewide plan can be viewed at <http://www.mt.gov/isd/content/itplanning/3-1-02DraftStateStrategicPlan.pdf>. For further information, contact Greg DeWitt at gdewitt@mt.gov or (406) 444-5392.

Senate Bill 495... The Legislative Finance Committee reviewed Part II of the staff report *Senate Bill 495--Impacts and Implications*. This part of the report discussed the implementation of this significant fiscal policy bill and raised five issues, primarily of a legal nature, regarding administrative procedures in implementing the bill. The committee directed staff to draft a committee bill that would:

- clarify when interest payments on the \$46.4 million coal trust loan should begin (fiscal year 2002);
- clarify the procedure for depositing interest payments into the general fund; and
- clarify how minerals royalties owned by the Department of Natural Resources and Conservation are treated with respect to statute.

For further information, contact Roger Lloyd at rlloyd@mt.gov or (406) 444-5385.

SB 162 Subcommittee...The SB 162 Subcommittee on Review of State Revenues Dedicated to Local Government met March 14. The subcommittee discussed issues related to the implementation of HB 124 that may overlap the dedicated revenue provisions being considered by the subcommittee. The Information Technology Services Division discussed the "enhanced 9-1-1 program" in response to the subcommittee's proposed recommendation to "sunset" the program.

The subcommittee reviewed four other dedicated revenue provisions. Two relate to fees collected by district court clerks, one relates to the distribution of Taylor Grazing Act funds, and one relates to a \$4.00 fee that is dedicated to the creation and support of a motor vehicle information system. The subcommittee will meet again in June to finalize its actions and to discuss the review process and criteria. For further information, contact Jon Moe at jonmoe@mt.gov or at (406) 444-4581.

## JOINT SUBCOMMITTEE ON POSTSECONDARY EDUCATION POLICY AND BUDGET

Subcommittee, Board of Regents, and Executive Branch Collaborate on Public Postsecondary Education Policy Goals...A concerted, collaborative effort by the members of the Joint Subcommittee on Postsecondary Education Policy and Budget yielded a tentative recommendation for statewide public postsecondary education policy goals. Using policy goals from the "Board of Regents Strategic Plan" as a starting point for deliberations, the subcommittee hammered out its preliminary version of statewide policy goals and the subcommittee's expectations of the Montana university system. Subject to further refinement, the following statewide policy goals were tentatively adopted:

- To provide a quality, stimulating, responsive, and effective environment for student learning, student living, and academic achievement.
- To make an affordable higher education experience available to all qualified citizens who wish to further their education and training.
- To deliver higher education services in a manner that is efficient, coordinated, and highly accessible.
- To be responsive to market, employment, and economic development needs of the state and the nation.
- To use the Montana university system as a leading contributor to the state's economic success and social well-being.

- To encourage the closer collaboration with the K-12 system and, to the extent allowed by law, with the non-Montana university system postsecondary education units in the state.

New Interim Committee Proposed...The subcommittee recommended the creation of an interim committee to oversee Montana public postsecondary education, similar to the former Postsecondary Education Policy and Budget Committee. The duties of that committee were absorbed by the Education and Local Government Committee. In particular, the new committee would conduct an ongoing review of the statewide public postsecondary education policy goals and accountability measures. The subcommittee recommended that the proposed committee consist of legislators from the Legislative Finance Committee and the Education and Local Government Committee, members of the Board of Regents, and a representative from the executive branch.

Subcommittee to Meet May 17...The subcommittee will meet Thursday, May 17 at 10 a.m. in Room 102 of the state capitol. The major agenda item will be a discussion of accountability measures, including: options for how they may be used, accountability measures that will be most meaningful, and the availability of those measures. The subcommittee will also review and approve the draft statewide policy goals and will review the draft legislation that would establish the postsecondary education interim committee.

For more information about the meeting, please contact Pam Joehler at (406) 444-5386 or send an e-mail to pjoehler@mt.gov. Meeting information is also posted on the subcommittee's website at <http://leg.mt.gov>. Just click on "Committees" and follow the links to the Education and Local Government Committee, Postsecondary Education Policy and Budget Subcommittee.

## HJR 1 STUDY OF PUBLIC MENTAL HEALTH SERVICES

Committee Examines Issues Related to Mental Illness and the Criminal Justice System...The legislative committee studying public mental health services met Feb. 7 and 8. The meeting was designed to address two policy topics:

- What is the legislative policy regarding treatment or incarceration of persons with a mental disease or defect who come into contact with the criminal justice system or who commit a crime?
- What is the legislative policy regarding the role of the Montana State Hospital?

The committee reviewed state statutes and state and federal court cases governing civil and forensic commitments to the Montana State Hospital (MSH). Several panel presentations explained processes and issues related to adults in the mental health system and persons with a mental illness in the corrections system. The panel presentations explained:

- training that law enforcement officers received about mental illness, including how to recognize that someone may be mentally ill and how to deal with such persons;
- a "typical" situation an officer may encounter when dealing with a person who is suffering from a mental illness and how an officer decides what to do in the situation;
- how officers determine the "dangerousness" of the person and the risk to others and decide on the alternatives for treatment or incarceration;
- 18% of the inmates at the Montana State Prison and 50% of the inmates at the Montana Women's Prison receive psychotropic medications related to a mental illness;
- the types of community services needed by inmates with a mental illness when they are released from prison, discharge planning processes, and barriers that exist to consistently obtaining services;
- forensic commitments to MSH and differences between forensic commitments and similar sentences in the criminal justice system;
- plea bargains used in gaining a conviction that sometimes include commitments to MSH instead of sentences to the corrections system;
- options available to the director of DPHHS once a person with a forensic commitment has achieved maximum benefit of hospitalization and potential barriers to alternative placements; and
- ramifications of the Montana Supreme Court **K.G.F.** decision

During presentations and committee discussion with presenters, several issues were identified. Some of the issues are:

- due to the **K.G.F.** decision: 1) increased costs to counties for court and evaluation costs of mental health commitment proceedings; and 2) increased potential for diversion of persons with a mental illness to the corrections system;
- lack of mental health services (funding for) for persons with a mental illness who are released from prison;
- potential for additional options for director of DPHHS once a forensic patient has reached maximum benefit of hospitalization;
- continued high populations at the MSH;
- definition of fitness to proceed and mental illness in statute;
- potential for a life sentence if committed to MSH on a finding of not guilty due to a mental disease or defect while conviction in the corrections system for a similar action carries a finite sentence;
- potential for sentence review process for forensic commitments to MSH;
- continued funding for programs designed to treat persons with a mental illness who are also chemically dependent;
- potential for MSH staff to continue or participate in community services for persons discharged from MSH;

- more integration between MSH and community services staff in provision of community services;
- the capacity of MSH and how to achieve that capacity including giving MSH a bigger role in determining admissions; and
- integration of legislative committee and executive branch committee work and recommendations for similar issues.

Staff is compiling a summary of issues with potential options. The committee will review the document prior to its regularly scheduled meeting on May 14. For more information please contact any of the following legislative staff: Susan Fox, Pat Gervais, Lois Steinbeck, or Lorene Thorson at (406) 444-2986.

## REVENUE AND TRANSPORTATION COMMITTEE

Committee to Meet in April...The Revenue and Transportation Interim Committee is scheduled to meet on Thursday and Friday, April 11 and 12 in Room 102 of the state capitol. The agenda is still being fine-tuned, but the meeting is likely to begin on Thursday afternoon and conclude Friday afternoon.

Items on the agenda include reports from the Departments of Transportation and Revenue, a report from the Legislative Fiscal Division detailing state revenue trends and projections, and committee discussion about SJR 21, the study of taxation of agricultural land.

The SJR 21 Subcommittee may meet Thursday morning, prior to the full committee meeting. Those who have been identified as interested persons for the SJR 21 study will be sent notification if the Subcommittee chair calls a meeting.

Individuals on RTIC's mailing list can expect to receive more detailed meeting information during the first week in April. If you have any questions or comments regarding the upcoming meeting, please notify Leanne Kurtz, RTIC staff, at 444-3064 or via e-mail at lekurtz@mt.gov.

## ECONOMIC AFFAIRS COMMITTEE

Economic Development Strategic Plan...The Economic Affairs Committee will meet Wednesday, April 10, at 9 a.m. in Room 137 of the state capitol. David Gibson from the governor's Office of Economic Opportunity will report on the progress of the final economic development strategic plan and the specific actions that will be necessary to meet the goals and objectives identified. The Department of Agriculture will discuss programs that promote value-added agricultural products and the marketing of those products.

Revised Role for Urgent Care Contemplated...The committee will consider a proposal to allow urgent care facility health care providers to serve as treating physicians to injured workers for follow-up visits. Urgent care facilities provide initial care for injured

workers, but follow-up visits, if necessary, are conducted by the injured worker's primary care provider. The committee is expected to request a response from the Department of Labor and Industry, public and private insurers, injured worker advocates, and health care providers working in walk-in clinics before making any recommendation to amend the rules.

Rules to Revise Fee Schedules and Reimbursement Rates...The Department of Labor and Industry will report on progress made to amend rules governing fee schedules and reimbursement rates for chiropractors, physical therapists, and occupational therapists. The revised rules would ensure reimbursement rates are "revenue neutral" by creating a specific reporting and evaluation mechanism that would adjust the fee schedule if any of the affected providers are underpaid or overpaid.

Meeting Planned for June...The Economic Affairs Committee is also scheduled to meet June 7. Please contact Gordy Higgins at 406-444-3064 or by e-mail at [gohiggins@mt.gov](mailto:gohiggins@mt.gov) if you have any questions about the committee's activities.

## SJR 22 SUBCOMMITTEE

Early Spring Meeting...The SJR 22 Subcommittee will meet on April 4, at 9 a.m. in Room 137 of the state capitol. The working group created to develop a proposal for individual and small business income tax credits for the purchase of health insurance will present a report for the full Subcommittee's consideration (see below).

Other agenda items include information on participating in established multi-state purchasing pools for prescription drugs, perspectives from members of the former Health Care Advisory Council related to the feasibility of recreating the council, and a description and analysis of a now repealed "basic" health insurance plan that was designed to be used in conjunction with small business tax credits.

Working Group Examines Tax Credit Criteria...The working group has adopted a number of basic eligibility and implementation criteria to be used in projecting costs of providing income tax credits for the purchase of health insurance. Sen. Jon Ellingson, the working group chairman, proposed that the design phase of the credit begin with a discussion of several issues revolving around the following questions:

- What should be the eligibility criteria for a tax credit (e.g., income levels, number of employees in the small businesses, history of the business offering or having health insurance, etc.)?
- What is the average cost of a basic and traditional insurance plan for individuals and small groups?
- Should the credit be a set dollar amount or a percentage of average premiums, and if the latter, what percentage of an average premium should the credit cover?
- Should the credit be refundable, advanceable, or both?
- Should the credit be indexed to allow for growth over time?

- How should the credit be structured to ensure it is used for the purchase of health insurance?
- Should a standard, basic health benefit package be created to increase the chances of purchasing insurance with the credit?
- Should the income tax deduction for health insurance be maintained, reduced by the credit, or eliminated as a condition for receiving the credit?
- Would individuals and small businesses rather deduct their costs associated with providing health insurance or receive a tax credit?
- How well known and used is the deductibility provision in Montana tax law?
- What would be the effect of the credit on the general fund?
- How should the credit be financed?
- How will the differences between the individual and small group market affect the credit design?
- How would a tax credit work with public programs?
- Should the credit be used to "buy-in" to CHIP?
- How does the uninsured population change?

The tables below show the working group's preliminary eligibility and design decisions. In some cases, more than one factor or condition was proposed to limit or expand eligibility. In those instances, cost scenarios will reflect the differences. One example is found in the small business eligibility table where size of eligible firms is listed both at 50 employees or less and 25 employees or less.

Eligibility Decisions	
<i>Individuals</i>	<i>Small Businesses</i>
No offer from employer	25 or fewer employees 50 or fewer employees
No coverage from employer	All business entities eligible
Ineligible for public programs	Credit available to all eligible businesses regardless of whether insurance is provided now
Household income 200% - 250% of the federal poverty level	Targeted by employee wages -- 200% to 250% of the federal poverty level Targeted by household income
	Capped at certain net income of business

<i>Design Decisions</i>	
<i>Individuals</i>	<i>Small Businesses</i>
Refundable	Refundable
Advanceable	Carryforward provision
Voucher or cash	Phased out as business net income reaches established cap.
Credit sent directly to insurer if purchasing in the individual market.	
Credit sent directly to employer if insurance is offered.	
<b><i>Design Criteria and a Question Common to Tax Credits for Individuals and Small Businesses</i></b>	
1.	If the credit is a percentage of average annual premium, the credit is at least 50% of the premium.
2.	If the credit is a flat dollar amount, the credit is at least \$1,250 for singles and \$3,000 for families.
3.	The credit should be used with a specific benefit plan - at least a major medical plan. Plans that offer wellness and risk management programs may also qualify. The credit may not be used for supplemental insurance plans.
4.	The credit may be used for purchasing coverage with MCHA and other public programs.
5.	Eligible individuals and small businesses may claim the credit and deduct expenses related to purchasing health insurance.
6.	The credit is not considered taxable income.
7.	Should a cap be placed on the total amount of the tax credit available to limit the use?

Please contact Gordy Higgins at 406-444-3064, or by e-mail at [gohiggins@mt.gov](mailto:gohiggins@mt.gov) if you have any questions about the Subcommittee's activities.

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

Committee to Review Department's Executive Plan... The committee is scheduled to meet May 14 and 15. The Department of Public Health and Human Services will present budget and legislative bill draft proposals related to its executive planning process. The committee plans to meet jointly with the Legislative Finance Committee's HJR 1 Subcommittee on Mental Health to review legislative proposals from DPHHS and others regarding mental health issues and the public mental health system. The minutes from the Feb. 12 and 13 meetings are on the committee website.

If you are interested in being placed on the interested persons list, please contact Susan Byorth Fox, Research Analyst, at (406) 444-3597 or by e-mail at [sfox@mt.gov](mailto:sfox@mt.gov).

## DISTRICTING AND APPORTIONMENT COMMISSION

New Commissioner Appointed... Sen. Fred Thomas, Senate Majority Leader, has appointed Dean Jellison, an attorney from Kalispell, to replace Greg Barkus as the commissioner representing the district that includes Lincoln, Flathead, Sanders, Lake, Mineral, Missoula, and Ravalli counties. The appointment is effective April 1, 2002. Barkus resigned to run for Senate District 39.

The commission met for its seventh and eighth public hearings on March 27 in Billings and March 28 in Crow Agency. Written testimony for both the southeast and southcentral regions will be accepted through April 18, 2002.

Commission to Adopt Tentative Plans... The commission will have tentatively adopted plans for the northcentral and northeast regions of the state at the March 27 executive session in Billings, which will be reported in the next issue of **THE INTERIM**. The next public hearings will be in May in Bozeman, Butte, and Helena. The next regions to receive staff visits will be counties in southwest Montana and then western Montana.

Regional Maps Available... Regional maps of proposals for legislative districts for the northcentral, northeast, southeast, and southcentral regions of the are available through the "Redistricting" link on the legislative website.

Public Comment Solicited... Please send any written testimony c/o Susan Fox, Legislative Services Division, P.O. Box 201706, Helena MT 59620. She will distribute the information to all commissioners and preserve the original for the file. The commission will not make any decisions on plans until after the deadline for written testimony has passed. For more information or to be placed on the Commission's interested persons list, please contact Susan Byorth Fox at (406) 444-3597, or [sfox@mt.gov](mailto:sfox@mt.gov).

## TRANSITION ADVISORY COMMITTEE

Meetings Scheduled for April...The Transmission Subcommittee will meet Thursday, April 25 at 10 a.m. in Room 137, state capitol. The Bonneville Power Administration will present a qualitative assessment of transmission needs related to new generation proposals in Montana; a panel will discuss the state role for improving transmission capability; Matthew Brown, National Conference of State Legislatures, will discuss issues and options related to state and federal authority over transmission; and the subcommittee will discuss the status of the creation of a regional transmission organization in the Pacific Northwest.

The Universal System Benefits Programs Subcommittee will also meet Thursday, April 25 in Room 102, state capitol. The subcommittee will discuss recommendations for presentation to the TAC.

The full committee will meet April 26 in Room 317 at 9 a.m., state capitol. Agenda items include:

- a discussion of the Public Service Commission's review of the default energy supply portfolio;
- a presentation on the initiative petition (I-145) for the state to purchase dams in the state;
- an analysis of the property tax implications related to the purchase of the dams;
- committee action on USBP Subcommittee recommendations; and
- a review of stranded cost issues.

For more information about the committee or the Transmission Subcommittee contact Jeff Martin at (406) 444-3595 or [jmartin@mt.gov](mailto:jmartin@mt.gov). For more information about the USBP Subcommittee contact Todd Everts at (406) 444-3747 or [teverts@mt.gov](mailto:teverts@mt.gov).

## MASON AND ROBERTS

**Dear Mason and Roberts:** I have been considering joining a critical thinking and philosophy forum called "Inquiring Minds". As their website mentions, "the ideas of man have puzzled the individual and the masses alike since time itself commenced". For some reason, that statement made me think about my experiences as a legislator! I think that some of the ideas and procedures of the Legislature are among the most puzzling on earth. I decided that it is pretty questionable as to whether that forum could help me, and since I'm still a little baffled about when and how I can ask questions during the legislative process, I'm turning to you for assistance. I hope that you can set my mind at ease and provide answers to the following questions.

Inquiringly yours,  
Rep. Wanda Knowitall

**Dear Rep. Knowitall:** We hope that we have adequately addressed your questions below--at least the ones about the legislative process. We forwarded the others on to Dear Abby. P.S., we hope that your mother-in-law is enjoying her new apartment.

**Q: Although it's hard to admit, I sometimes get lost among the motions and maneuvering during floor sessions. Is it okay to ask for clarification as to where we are regarding a particular bill or floor action?**

A: Don't feel bad. Floor sessions can move along at a lightening pace, and it isn't always easy to follow the action, particularly for new members. The House rules specifically provide that a representative has the right to understand any question before the House and may ask questions to exercise that right (House Rules 50-80 and 60-10).

To ask a question about a floor procedure or seek information about a motion before the House or Senate, you may make a parliamentary inquiry. Simply rise and address the presiding officer by saying, "I rise to a point of inquiry" or "I rise for a point of information". The presiding officer will ask you to state your inquiry and will then respond to your question. A point of inquiry, which is merely a request for information, may not be debated (Senate Rule 50-60; House Rules 50-80 and 60-20) or appealed (House Rule 20-20; Mason's Manual of Legislative Procedure (Mason's), sec. 252).

**Q: I'm no parliamentarian, but once in awhile it seems that the chamber isn't following it own rules. Is there any way to bring this situation to the attention of the body?**

A: Yes, in the form of a question of order. A question of order (also known as a point of order) is a parliamentary procedure used by a member to bring attention to a possible violation of the rules. You must raise a question of order promptly at the time the particular question is pending (Mason's, sec. 241). To do so, rise and address the presiding officer by saying, "I rise to a question [point] of order". The presiding officer will ask you to state your question. The presiding officer may immediately rule on the validity of your question or defer a ruling to a later time, particularly if the question is complex and requires research or investigation. The presiding officer may also ask the advice or opinion of members before rendering a decision (Mason's, sec. 244). A question of order may not be amended (House Rule 60-20 (incidental motions); Mason's, sec. 246) or debated unless the presiding officer submits the question to the members (House Rule 50-80 (incidental motions); Senate Rule 50-60; Mason's, sec. 245). A ruling from the presiding officer is not debatable unless an appeal is taken from the decision (Senate Rule 50-60; Mason's, sec. 232).

It's important to note that a legislative body has the right to protect itself from delaying motions or questions used to hold up or obstruct business. If you repeatedly raise points of inquiry or questions of order, the presiding officer may conclude that you are improperly using these parliamentary procedures and rule that you are out of order. This decision may be appealed to the body (House Rule 20-50; Mason's, secs. 156 and 180).

**Q: What if I disagree with the ruling of the presiding officer regarding my question of order? Do I just grin and bear it, or is there another recourse?**

A: You may appeal if you disagree with the presiding officer's ruling. To do so, rise after the ruling is announced and address the presiding officer by saying, "I appeal from the decision". You need two members to support your appeal in order to proceed (Senate Rule 20-10; House Rule 50-150). Your motion to appeal may not be amended (Mason's, sec. 233); however, it may be debated. A senator may speak only once on an appeal unless consent is granted by a majority of the Senate (Senate Rule, 20-10); in contrast, a representative needs a unanimous vote to speak more than once on a motion (House Rules 50-70 and 50-150). If there is no debate or after debate has ended, the presiding officer will put the question to a vote by asking if the decision of the presiding officer should be sustained (House Rule 20-20, Mason's, sec. 231). If a majority of those present and voting agree to sustain the presiding officer's decision, it stands. The decision also stands if the vote is tied (Mason's, sec. 234).

In the House, another avenue for appeal is available. In lieu of appealing the presiding officer's decision to the House, 15 representatives may request that the decision be appealed to the House Rules Committee. The committee may consider and report on the appeal on the next legislative day, unless it would cause the legislation to fail to meet a scheduled deadline. The decision of the committee may be appealed to the House by any representative (House Rules 50-150 and 70-50).

**Q: Okay. I understand the purpose of a point of inquiry and a question of order. But what is a question of privilege, and how is it used?**

A: A question of privilege relates to the rights and privileges of the House or Senate or its members in their official capacity or to the comfort and convenience of the body or its members in performing their official duties (Mason's, sec. 220). Those questions affecting the collective rights, safety, dignity, and integrity of the body take precedence over those affecting the rights, reputation, or conduct of individual members (Senate Rule 20-20; House Rule 20-20). To raise a question of privilege, rise and address the presiding officer by saying, "I rise to a question of privilege". The presiding officer will then ask you to make your statement.

A question relating to an individual member is also known as a question of personal privilege. If you raise a question of personal privilege, you must confine yourself to remarks that concern you personally; you cannot defend anyone else (Mason's, sec. 222).

In the Senate, a question of privilege may be raised at any time, including when a question is under debate (Senate Rule 50-50). In the House, a member may raise a question of privilege at any time except between the time a nondebateable motion (including a call for the previous question and a motion to table) is offered and the vote is taken on the motion (House Rule 20-20).

## TIME AND TIDE

<u>Event</u>	<u>Days remaining</u>
Target date for completion of interim committee work (September 15, 2002)	168
General election (November 5, 2002)	219
58th Legislature convenes (January 6, 2003)	281
The next legislative session is getting close, isn't it?	

## BACK PAGE

### EQUAL PROTECTION FOR YOUR VOTE

By Sheri Heffelfinger  
Legislative Research Analyst

While Americans watched the broadcast news networks call the 2000 presidential election first for Gore, then for Bush (or perhaps Gore did win--no, Bush it is) votes were still being cast, counted, and recounted. However, more was at stake than the presidency of the United States. At stake was how we define a vote and whether what is a vote in one case but is not a vote in another case violates a voter's right to equal protection.

#### TO COUNT OR NOT TO COUNT

Americans take for granted that a vote cast is a vote counted. However, the reality is that close elections, recounts, or potentially controversial subjective determinations of what is or is not a vote occur in every election in every jurisdiction all the time. According to a study by the California Institute of Technology and the Massachusetts Institute of Technology (Caltech/MIT), which was commissioned in the wake of the "Florida furor" during the 2000 presidential election, an estimated 4 to 6 million votes for president were lost nationwide in 2000. That's about 2% of the votes cast. Yet, in the 2000 presidential election, the winner's margin was less than 1/2 of 1% in four states: Florida, Iowa, New Mexico, and Wisconsin. Furthermore, the Caltech/MIT study also estimated that the incidence of spoiled, unmarked, ambiguous, and uncounted votes (i.e., lost or residual votes) is much higher, 5%, in U.S. Senate or state gubernatorial elections.

#### WHY ARE VOTES LOST?

According to the Caltech/MIT findings, of the estimated 4 to 6 million votes lost in the 2000 presidential election, 1.5 million were lost because of faulty equipment, 1.5 to 3 million were lost because of voter registration mixups, 1 million were lost because of problems with polling place operations, and an unknown number of votes were lost because of problems counting absentee ballots.

#### WHAT DOES *BUSH v. GORE* MEAN FOR MONTANA?

However, irrespective of the whys and hows of residual vote rates, the main issue raised in *Bush v. Gore* was whether the vote counting process in Florida violated a voter's right to equal protection. The U.S. Supreme Court, reviewing the decision of the Florida Supreme Court, concluded that the process ordered by the Florida Supreme Court did not provide for uniform standards or guidelines on how a vote was to be counted. Thus, the process used for determining voter intent (as required by Florida statute) did not satisfactorily guarantee that voters received equal protection under the law. To quote the U.S. Supreme Court's opinion in *Bush v. Gore*:

The recount mechanisms implemented in response to the decisions of the Florida Supreme Court do not satisfy the minimum requirements of nonarbitrary treatment of voters necessary to secure the fundamental right. Florida's basic command for the count of legally cast votes is to consider "the intent of the voter". . . . This is unobjectionable as an abstract proposition and a starting principle. The problem inheres in the absence of specific standards to ensure its equal application. The formulation of uniform rules to determine intent based on these recurring circumstances is practicable and, we conclude, necessary.

The 57th Legislature passed a study resolution (House Joint Resolution No. 8) to examine these matters and develop recommendations. The study was assigned to the State Administration and Veterans' Affairs Interim Committee (SAIC) and, in turn, to the SAIC's HJR 8 Subcommittee on Voting Systems. What is apparent from the discussions held during the Subcommittee's meetings is that casting votes and counting votes are inherently subjective processes. However, various technologies have been invented to mitigate subjective determinations to the extent possible and to help vote counters cope with the sheer volume of the votes to be counted.

#### AVAILABLE TECHNOLOGY

There are a variety of different voting systems or technologies. The most simple, of course, is a paper ballot, a No. 2 pencil, and a secret voting booth. Many paper ballots can be counted "manually", that is, with human eyes. In Montana, 20 counties use manually counted paper ballot voting systems. Then there are the optical scan technologies that also use a printed paper ballot, but the votes are counted by machine eyes that count only certain marks as votes. Thirty Montana counties employ optical scan systems. A punchcard voting system uses a computer punchcard. A vote is cast when the voter punches out the appropriate chad with a stylus. Montana has six counties that use the punchcard voting system. The old style lever machines do not involve any kind of paper ballot. Rather, votes are cast by pushing down a lever. The lever machine simply keeps a running total of the number of times that a certain lever is pushed. A few Montana school districts use these old lever machines. Finally, there are more recent technologies that allow for electronic voting, such as direct recording electronics (DRE), touch screen video machines, or Internet-based systems. These systems do not involve paper ballots at all. A few of the most populous counties in other states have moved toward electronic voting system technology, but the jury is still out in most of the country concerning the security and desirability of some of these systems. There are no electronic voting systems in use in Montana.

#### VOTERS ARE ONLY HUMAN

No matter the technology used, the HJR 8 Subcommittee on Voting Systems is finding that subjectivity and human error cannot be removed from the vote counting process because we voters are, after all, only human. We make mistakes. Sometimes these mistakes are our own fault. Sometimes our mistakes are caused by faulty or difficult to use equipment.

For example, you may have marked a ballot with an "X" when you should have darkened in the oval. In a manual count, the human counter would have to determine whether you marked an "X" because you intended to vote for that candidate or because you did not want to vote for that candidate. Furthermore, in one county, the counters may have been instructed to interpret an "X" as a vote, while in another county, the counters may have been instructed to interpret an "X" as a nonvote.

Perhaps you were using a punchcard ballot and didn't punch the chad all the way out. Consequently, a chad was left hanging by two corners. Did you leave the hanging chad because you started to punch out the chad, then realized you were punching out the wrong chad and stopped, or did you really mean your vote to be counted but have trouble with the stylus? In any case, imagine that before your ballot was placed into a machine, an election judge, following proper instructions, ran a hand over the ballot to dislodge loose chads but your questionable chad did not fall. No matter what you intended, your vote would not be counted. However, imagine another voter's ballot with a similar chad, but the election judge used a harder touch and the chad did fall out, so that vote was counted. Then imagine that the election was very close, so a manual recount was ordered and your ballot was examined by human eyes. The counter, seeing that two corners of the chad were punched out, interpreted your hanging chad as a vote and so counted it. However, another counter, looking at a similar chad, had been instructed to count a hanging chad as a vote only if it was hanging by one corner, so would not have counted your vote.

Perhaps you voted on an optical scan ballot but left a stray mark next to the name of a candidate for whom you did not want to vote. Nevertheless, the scanner recorded the mark as a vote, which resulted in the machine seeing two votes for the office. Consequently, the machine determines you voted twice and your vote is void. Again imagine that it was a close election, a manual recount was ordered, and a human pair of eyes looked at your ballot. The human counter clearly sees your mark as a stray and counts your vote. Would another counter in another county have counted that mark as a vote, or not?

Then imagine, as was the case in Florida, that in the middle of the recount of the ballots in any of the above examples, the guidelines for interpreting the voter's intent changed midway through the recount so that what was a vote prior to 2 p.m. that day was not counted as a vote after 2 p.m.

If you can imagine these situations, you can begin to appreciate the complexity of the issue and the difficulty involved in guaranteeing equal protection for your vote.

#### **WHEN IS A VOTE NOT A VOTE?**

As illustrated above, the answer to the question of when is a vote not a vote is, it all depends. It all depends on the ballot being used, whether the ballot is manually or machine counted, the reliability of equipment used, the instructions given to voters, the guidelines given to election judges in each county, and even the mood of the person on

the recount board running a hand over a punchcard or of a counter trying to distinguish a stray mark from a real vote.

#### **ALL VOTING SYSTEMS ARE NOT CREATED EQUAL**

In considering how best to manage the inevitable human subjectivity involved in casting and counting votes, the HJR 8 Subcommittee on Voting Systems is focusing on voting technologies and the track records of these systems. The Caltech/MIT study discovered that manually counted paper ballot systems, optical scan systems, and lever machines consistently performed better (had fewer incidences of residual votes) than punchcard systems or DREs. The study was particularly critical of the punchcard system, citing data that punchcard systems had the highest average residual vote rate of all the systems evaluated in relation to presidential elections, 2.5%, while optical scan systems and lever machines had the lowest residual vote rate, 1.5%. Hand-counted paper ballot systems showed a 1.8% residual vote rate. However, this data does not necessarily reveal the actual residual vote rate of systems used in Montana by local election administrators. Depending on such factors as the training given to election judges, the guidelines applied by recount boards, or even the clarity of instructions to voters, a particular system could actually perform better or worse than reported in the Caltech/MIT study.

#### **SHOULD PUNCHCARD SYSTEMS BE REPLACED?**

Based on the findings of various studies and a belief that the public lacks confidence in the punchcard system because of the events in Florida, the Montana Secretary of State is encouraging the six Montana counties (Broadwater, Fallon, Fergus, Flathead, Glacier, and Mineral) that use punchcard voting systems to change to optical scan equipment. However, cost is an issue. Some cost estimates suggest that purchasing optical scan equipment for these six counties would cost a total of about \$250,000, not including the cost of peripherals, such as ballot boxes, secrecy sleeves, etc., or the cost of operation and maintenance. Other estimates suggest that the cost to change to optical scan equipment would be about \$2 for each voter, which for Flathead County, with about 35,000 voters who turned out in 2000, would amount to at least \$70,000. Furthermore, some election administrators using punchcard systems maintain that it is actually a better system than an optical scan system if, as would be true with any system, it is used properly. However, if systems are to be changed, then who should pay the bill? Who should set the standards for what should or should not be counted as a vote, how should those standards be set and what will ensure that the standards are applied equally statewide?

#### **WHAT POWERS SHOULD THE SECRETARY OF STATE BE GIVEN?**

Current state statute provides that an election cannot be conducted in Montana with a voting devise or machine that has not been approved by the Secretary of State (see section 13-17-101, MCA). However, the statutory guidance on the standards to be applied in approving or disapproving a voting system is narrowly focused on the nuts and bolts of ensuring that voters can cast their ballots in secret, prohibiting a voter from

casting more than one vote for a candidate, and providing safeguards to prevent tampering with the equipment for fraudulent purposes. (See section 13-17-103, MCA.) Still, the fact remains that elections have traditionally been the purview of local governments. State control of a process that is administered and paid for locally is a controversial issue that warrants a judicious decisionmaking process.

The HJR 8 Subcommittee on Voting Systems and ultimately the Legislature will have to carefully navigate through these fiscal and policy issues while ensuring that Montana's election laws are written and applied so that your right to equal protection is not violated.

#### WHAT DECISIONS WILL BE MADE?

What federal mandates or federal funds will be added to the mix of state legislative issues? The federal bills remain a work in progress and only time will tell for sure how federal law will ultimately affect state law and local elections. In the meantime, the HJR 8 Subcommittee on Voting Systems is considering two pieces of draft legislation--one that would ban punchcard systems if money is made available to offset county costs and one that generally revises statutes relating to voting machines and devices and directs the Secretary of State to adopt uniform rules for how counties should count votes. The Subcommittee is tentatively scheduled to meet on April 25, 2002, in Room 152 of the State Capitol to finalize its recommendations to the full SAIC. The public is welcomed and encouraged to participate.

Please contact Sheri Heffelfinger at 444-3596 for more information or access the HJR 8 Subcommittee's website by going to [www.leg.state.us](http://www.leg.state.us).



## INTERIM CALENDAR

UNLESS OTHERWISE SPECIFIED,  
ALL ROOM DESIGNATIONS ARE IN THE CAPITOL BUILDING

### APRIL

April 4, SJR 22 Subcommittee on Health Care and Health Insurance, Room 137, 9 a.m.

April 10, Economic Affairs Committee, Room 137, 9 a.m.

April 11 and 12, Revenue and Transportation Committee, Room 102

April 25 HJR 8 Subcommittee on Voting Systems

April 25, Transition Advisory Committee Transmission Subcommittee, Room 137

April 25, Transition Advisory Committee Universal System Benefits Programs Subcommittee, Room 102

April 26, Transition Advisory Committee, Room 317, 9 a.m.

April 26, State Administration and Veterans' Affairs Committee

### MAY

May 8, EQC Coalbed Methane/Water Policy Subcommittee, Room 102, 11 a.m.

May 8, EQC Agency Oversight/MEPA Subcommittee, Room 152

May 8, EQC Energy Policy Subcommittee

May 9, Environmental Quality Council, Room 102, 8 a.m.

May 14, HJR 1 Subcommittee on Public Mental Health Services

May 14 and 15, Children, Families, Health, and Human Services

May 17, Joint Subcommittee on Postsecondary Education Policy and Budget, Room 102, 10 a.m.