
THE INTERIM

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TRANSITION ADVISORY COMMITTEE

Subcommittees to Organize in January...Because of existing and potential "bottlenecks" in the electrical energy transmission system in Montana and surrounding states, the Transition Advisory Committee will devote a significant amount of time to the various aspects of transmission, especially as they relate to restructuring and new generation. During the discussion of the committee work plan on Nov. 16, Sen. Fred Thomas appointed Dave Wheelihan to chair a transmission subcommittee. Other members include Reps. Roy Brown, Steve Gallus, and Alan Olson, and Sens. Don Ryan, Emily Stonington, and Fred Thomas. Wheelihan has scheduled an organizational meeting for Jan. 24 beginning at 1 p.m. in Room 102 of the state Capitol. Representatives from the Northwest Power Planning Council, the Montana Power Co., and the Bonneville Power Administration will provide background information on the regional transmission system. The subcommittee will identify topics that it wants to pursue for the rest of the interim.

Although HB 474, enacted during the last legislative session, extended universal system benefits programs, the committee is required under the original restructuring legislation (SB 390) to evaluate the need for universal system benefits programs and to make recommendations to the next legislature by July 1, 2002. Sen. Thomas appointed a subcommittee to evaluate universal system benefits programs (USBP) and associated costs. The subcommittee chair is Rep. Tom Dell; other legislative members are Reps. Stan Fisher and Jim Keane and Sens. Alvin Ellis and Walter McNutt. Nonlegislative members include Matt Brainard (Public Service Commission), Doug Hardy (Montana electric cooperatives), Gene Leuwer (low-income customers), and Pat Corcoran (MPC). The subcommittee will conduct a conference call the afternoon of Jan. 25 to review a tentative work plan and meeting schedule.

Proposal to Review Restructuring...At the committee's Nov. 16 meeting, members discussed a suggestion for an independent assessment of the state's restructuring scheme. The committee decided that the National Conference of State Legislators, as a nonpartisan and uniquely qualified organization, may be the appropriate entity to conduct the assessment. On Dec. 11 committee members, including Sens.

Thomas, McNutt, Stonington, and Rep. Dell spoke with NCSL's energy program director Matthew Brown about doing the assessment. Brown will prepare a proposal to be reviewed by the participating members. The group will make a recommendation to the full committee at its February meeting.

Meetings Scheduled for February...The transmission and USBP subcommittees will meet in Helena Feb. 14 and the full committee will meet Feb. 15 in Helena. For more information about the committee or the transmission subcommittee contact Jeff Martin at (406) 444-3595 or jmartin@mt.gov. For more information about the USBP subcommittee contact Todd Everts at (406) 444-3747 or teverts@mt.gov.

LEGISLATIVE COUNCIL

The Legislative Council met Nov. 29 in Helena. During the meeting, the Department of Administration reported on Capitol security issues, and staff of the Legislative Services Division demonstrated the new information request system of the legislative branch. Council action included:

- deferring action on a proposed Council rule on appointments to interstate and international committees;
- adopting a recommendation from the Children, Families, Health and Human Services Interim Committee not to conduct the SJR 8 study on privatization of foster care and adoption services at this time;
- reaffirming guidelines on legislator claims for reimbursement related to interim activities; and
- creating a Subcommittee on Strategic issues to provide direction to staff on projects related to the Council's strategic plan.

The Council's next meeting is scheduled for Jan. 25. For more information, contact Lois Menzies at (406) 444-3066 or lomenzies@mt.gov

LAW AND JUSTICE INTERIM COMMITTEE

Committee Reviews Mental Health and Criminal Sentencing...The Law and Justice Interim Committee met on Dec. 6 and 7 in Helena. The committee participated in a half-day seminar on issues of mental health and criminal sentencing. The discussion focused on the legal status of forensic patients, including those who are incompetent to stand trial because of mental illness, those who are found not guilty because of mental illness, or those who are found guilty but are mentally ill. In the first two instances, the "patient" is determined to be mentally ill and is legally committed to the state hospital. In the third instance, the person is convicted of a crime and although determined to be mentally impaired or ill is sentenced to the Department of Corrections. An individual's legal classification, training, treatment, level of restriction, legal rights, and other factors differ depending on the person's mental health. The impacts to the mental health or

corrections system also varies. Committing a criminal to a mental institution or sentencing a mentally ill person to prison may result in problems. Several entities are examining specific problems and searching for options to mitigate existing conflicts, including the HJR 1 Mental Health Services Subcommittee, the Mental Disabilities Board of Visitors, the State Mental Health Ombudsman, the Department of Corrections, the Department of Public Health and Human Services (Addictive and Mental Disorders Division and the Montana State Hospital), Montana Department of Justice, and others. The committee will revisit the issues later in the interim, particularly if legislation is proposed.

The committee reviewed and adopted a revised version of *Felony Sentencing Statutes, Analysis Tool and Reference Guide, 2001*. The 2003 version of the *Guide* will include information on felony drug offenses (Title 45, MCA), Title 45, MCA, felony statutes adopted after 1995, and non-Title 45 felonies. Copies of the final document will be available before the 2003 legislative session.

Jo Acton, Warden, Montana Women's Prison (MWP), discussed recent activities and developments at the MWP. Growth in the MWP population continues and exceeds capacity. Some inmates are being housed at the Crossroads facility in Shelby, at least until construction is completed at the MWP in Billings. Illegal drugs and alcohol are factors in the circumstances of a majority of the MWP inmates, and there has been an increasing number of inmates who have been criminally associated with methamphetamine (use, manufacture, and distribution). Acton will continue to report on the issues and developments relevant to the MWP and the committee.

In other matters, the committee dissolved its subcommittee on an intermediate court of appeal, reviewed correspondence from Sen. Jon Tester regarding frivolous lawsuits, and scheduled observing oral arguments before the Supreme Court as part of its March 2002 meeting agenda.

Committee to Meet in March..The committee is scheduled to meet in Helena on March 28 and 29, venue to be announced. Items anticipated for the March agenda include:

- the regular reports from the Judiciary, the Attorney General and Department of Justice, and the Department of Corrections;
- a briefing by Ed Smith, Clerk of Supreme Court, on the compilation and reporting of certain sentencing information by district courts;
- items related to the HJR 39 criminal sentencing study; and
- member issues.

For more information contact Dave Bohyer at (406)444-3064 or dbohyer@mt.gov, or Chairman Rep. Gail Gutsche.

EDUCATION AND LOCAL GOVERNMENT COMMITTEE

Committee to Meet in January..The Education and Local Government Committee will meet on Friday, Jan. 11 in Room 137 of the Capitol. The meeting will begin at 9 a.m. Jeff Hindoen of the Advisory Council on Public School Funding will

present the council's recommendations on school funding. The committee will take public comment on the recommendations at the meeting. The committee will also adopt a schedule of public hearings to be held across the state during February and March at which time citizens can comment on the recommendations.

Following the presentation, the committee will continue its work on House Joint Resolution No. 41 (school district territory transfers). Hopefully by the end of the meeting, the committee will have made enough decisions for staff to begin writing legislation.

For more information about the meeting, please call Connie Erickson at (406) 444-3064 or send an e-mail to cerickson@mt.gov. Meeting information is also posted on the committee's website at <http://leg.mt.gov>. Just click on "Committees" and follow the links to the Education and Local Government Committee.

STATE-TRIBAL RELATIONS

Committee to Meet in January..The State-Tribal Relations Committee will meet on Wednesday, Jan. 9 in Room 102 of the Capitol, beginning at 9 a.m. Gene Huntington of the Gambling Control Division, Department of Justice, will discuss state-tribal gaming compacts in general and the status of current state-tribal negotiations. Representatives from the Department of Public Health and Human Services will report on some of the department's programs that impact Indian people.

The committee will also discuss possible study topics for the remainder of the interim and another trip to an Indian reservation in the spring.

For more information about the meeting, please call Connie Erickson at (406) 444-3064 or send an e-mail to cerickson@mt.gov. Meeting information will also be posted on the committees' website at <http://leg.mt.gov>. Click on "Committees" and follow the links to the State-Tribal Relations Committee.

LEGISLATIVE FINANCE COMMITTEE

The Legislative Finance Committee (LFC) met Dec. 6 and 7. Reports from the meeting are available on the Legislative Fiscal Division website at <http://leg.mt.gov/fiscal/index.htm>. For questions or comments concerning the LFC meeting, contact Clayton Schenck at cschenck@mt.gov or (406) 444-2986.

Montana Science and Technology Alliance Portfolio..Carroll South, Executive Director, Montana Board of Investments, responded to committee inquiries into the status and future of the portfolio transferred to the Board of Investments from the now defunct Board of Science and Technology Development. He discussed the status of outstanding loans and the Board of Investments' approach to closing out the loans. While total loss to the Coal Severance Tax Permanent Fund can't be projected at this time, it is likely that some coal tax principal will be written off within the next year. For further information, contact Todd Younkin at tyounkin@mt.gov or at (406) 444-2722.

Proprietary Fund Rate-Setting...Committee staff presented a report and recommended improvements for the information gathering and decision-making processes for setting rates of proprietary funds. The committee approved three recommendations identifying the starting point for the decision-making process and the information that would be requested from agencies and then presented to the Legislature. The committee deferred a decision on a recommendation concerning programs charging rate structures other than those approved by the Legislature. It also deferred a decision to discourage approving rates specified as maintaining a certain level of working capital. For further information, contact Todd Younkin (above) or Greg DeWitt at gdewitt@mt.gov or (406) 444-5392.

TANF and FAIM Phase II-R Update...The committee was updated on the status of Temporary Assistance for Needy Families (TANF) and Families Achieving Independence in Montana (FAIM) Phase II-R spending. The LFC considered options related to HB 2 language regarding reduction in FAIM Phase II-R items and the statutory requirements of HB 273 for the transfer of funds to the low-income housing revolving loan account. The LFC requested a committee bill for consideration by the 2003 Legislature that would reduce the amount of the transfer to the low-income housing account in an amount equal to the proportional reduction that is made in other FAIM Phase II-R items.

The committee also heard information regarding FAIM caseloads. FAIM caseloads began increasing in the fall of 2000 and have continued to increase since then. Three policy decisions impacting FAIM caseloads were accepted by the 2001 Legislature. These policy decisions include changes in:

- caretaker relative grants, effective February 2001;
- the community service program, effective in July 2001; and
- sanction policy, which has not yet been implemented.

Because information regarding the costs and caseload changes attributable to these policy changes is not available, it is not possible to determine the portion of the caseload increase attributable to these policy changes versus the portion of the caseload increase attributable to other factors. For additional information regarding TANF, contact Pat Gervais at pagervais@mt.gov or at 444-1795.

Potential Department Cost Over-runs and Service Reductions...The day before the LFC meeting, the Department of Public Health and Human Services (DPHHS) provided legislative staff with an updated budget status report showing a projected net deficit of \$4.4 million general fund, and the Office of Budget and Program Planning provided a list of reductions and changes that were being considered to offset the estimated shortfall. An important item that was not included in the budget status report is a potential \$6 million annual shortfall in the Child Support Enforcement Division, which is 60% of the annual division budget. None of the reductions or changes under consideration by the executive branch addressed how it would offset the child support shortfall.

Nearly every division in DPHHS is projecting a shortfall. However, the Senior and Long-Term Care Division estimated a \$1.8 million general fund surplus because of

nursing home caseload decreases. Caseloads are about 3% lower than projected during the 2001 legislative session.

The department's general fund shortfall is driven primarily by cost overruns in primary care and mental health Medicaid services. Primary care includes hospital, physician and pharmacy services. Unanticipated increases in the number of people eligible for Medicaid, especially in the aged, blind, and disabled categories (the most expensive eligibility groups) as well as higher utilization of hospital services account for most of the increased costs.

Legislative staff expressed some concern that mental health Medicaid service reductions proposed by the Addictive and Mental Disorders Division could cause increased general fund expenditures in the Child and Family Services Division. That unintended consequence could occur if foster care children who are Medicaid eligible are unable to obtain Medicaid funding for needed out-of-home treatment services. If treatment costs for foster care children are not eligible for Medicaid reimbursement, payment for services can shift to the general fund and increase general fund outlays by 70%.

Legislative staff also identified other issues with respect to the budget status report and reductions being considered by the executive branch. The complete report is available on the LFD website at http://leg.mt.gov/Reports/Fiscal/interim/FinanceCmty_Dec2001/DPHHS_BSR_Dec_LFC.pdf or the report may be obtained from the Legislative Fiscal Division. For further information, or for a copy of the report, contact Lois Steinbeck (lsteinbeck@mt.gov or (406) 444-5391) or Pat Gervais (pagervais@mt.gov or (406) 444-1795).

Implementation of Senate Bill 495, Part 1... The report explained major provisions of SB 495, enacted by the 2001 legislature to enhance funding for schools and to stabilize the long-term growth of the common school trust fund. Important background material on peripheral issues surrounding the school trust fund was provided. It was pointed out that implementation of the legislation by the executive branch raises numerous questions and issues that will be addressed in a future report to the Legislative Finance Committee. Implementation of the law differs from that anticipated by the Legislature in the effect on revenues and expenditures. To be researched further are the impacts and implications of only a portion of the mineral production rights being purchased and the absence of a sale/purchase agreement between the Board of Land Commissioners and the Department of Natural Resources and Conservation. For further information or a copy of the report, call Roger Lloyd at (406) 444-5385.

Higher Education Project Proposal Referred to Joint Subcommittee on Postsecondary Education Policy and Budget...The LFC referred the project proposal to develop statewide policy goals and accountability standards for the Montana University System to the Joint Subcommittee on Postsecondary Education Policy and Budget (PEPB), a subcommittee of the education and local government interim committee. Because the issue is significant and closely related to budget and appropriations matters, the LFC appointed Sens. Royal Johnson and Emily Stonington to the PEPB. During a conference call Dec.20, the PEPB discussed whether it wanted to undertake the proposed project. [For additional coverage, see the separate article below.] The LFD staff contact

is Pam Joehler at pjoehler@mt.gov or (406) 444-5386.

Wildfire Suppression Costs...As of December, the fiscal year 2002 fire costs incurred by the Department of Natural Resources and Conservation are estimated at \$10.4 million. There has been no significant fire activity reported since the October LFC meeting. During the 2000 fire season, Montana had estimated that the Federal Emergency Management Agency (FEMA) would be providing a total of \$35.3 million of federal aid to assist with fire suppression costs. At the end of the last legislative session, the state had received \$20.7 million in advances and anticipated receiving an additional \$14.6 million in fiscal year 2002. As of Nov. 19, 2001, the state had received \$14.7 million, which is slightly above the amount anticipated. Negotiations are taking place to determine if Montana is eligible for additional funding. An update on amounts of additional FEMA funding, if any, will be provided at an upcoming Legislative Finance Committee meeting. For further information, contact Gary Hamel at gahamelmt.gov or call 444-5347.

Review of Dedication of State Revenues to Local Government...The SB 162 subcommittee met on Dec. 6 to continue its review of statutory provisions that dedicate revenues to local government. To date, the subcommittee has reviewed 28 provisions. It is finding that the large majority of these provisions to be appropriate dedications of state revenue relative to the criteria set forth in SB 162. So far, the subcommittee has agreed on a couple of recommendations for the whole committee to consider. The first would be to "sunset", effective 2007, the provisions related to the enhanced 9-1-1 emergency telephone program so that the Legislature would review this program at that time. The second recommendation would de-earmark the share of fines and penalties that go into the gambling license fee account for distribution to local government and replace those funds by increasing the local government entitlement provided for in HB 124. Relative to the gambling license fee account, the subcommittee was also told about an impending shortfall in the account that may require either cuts in the licensing and enforcement functions or a request for fee increases. For questions regarding the SB 162 subcommittee, contact Jon Moe at jonmoe@mt.gov or (406) 444-4581.

Prison Population Update... The Department of Corrections projects that the number of offenders in contract beds will exceed legislative projections by 127 beds in fiscal year 2002. This would result in a fiscal year overrun of \$1.8 million in contract bed costs. Populations are higher based on an increased number of revocations, longer lengths of stay, and a lower percentage of paroles granted. The department has taken several measures to effect efficiencies and limit shortfalls and has said that a supplemental appropriation should not be needed in 2002. In fiscal year 2003, \$2 million less was appropriated for contract beds and although the opening of the DUI Unit in February 2002 and the completion of the Montana Women's Prison expansion in 2003 will alleviate some of the pressure on contract beds, there is the potential for a \$3.3 million shortfall in contract beds in fiscal year 2003 if the department's projections are realized. For further information, contact Lorene Thorson at lthorson@mt.gov or call (406) 444-5387.

DUI Unit Update...Joe Williams, Department of Corrections, informed the committee that the pending contract for the management of the DUI Unit has a daily rate that is higher than was projected during the 2001 legislative session. The fiscal note for the legislation that implemented this unit was based on \$45.68/day in fiscal year 2002 and \$43.19/day in fiscal year 2003. Including food costs, the daily rate in the pending contract would be approximately \$52/day. The unit is expected to start admitting fourth DUI offenders in February 2002. Contact Lorene Thorson for more information.

JOINT SUBCOMMITTEE ON POSTSECONDARY EDUCATION POLICY AND BUDGET

Additional Members Appointed...In addition to the four legislative members appointed by the Local Government and Education Committee in November (Reps. Peterson and Branae and Sens. Butcher and Ryan), two additional legislators from the Legislative Finance Committee have been appointed to the subcommittee (Sens. Royal Johnson and Emily Stonington). The Board of Regents appointed Ed Jasmin, Bigfork, and Mark Semmens, Great Falls. Steve Snezek of the Governor's Office will represent the executive branch.

Conference Call Meeting...The subcommittee held a conference call meeting on Dec. 20 for the purpose of determining the interest of the subcommittee to undertake a project to develop statewide policy goals and accountability standards for the Montana University System. The subcommittee agreed to proceed with the project.

Subcommittee members recognize the importance of both project objectives and indicated a desire to attempt to address both issues. The first objective to be undertaken is to develop statewide policy goals for postsecondary education in Montana, followed by the development of meaningful accountability standards that measure the attainment of policy goals.

January Meeting Scheduled...The next subcommittee meeting is scheduled for Jan. 10, in Room 137 of the Capitol beginning at 1:00 p.m. For more information about the subcommittee, please contact Pam Joehler, Legislative Fiscal Division, at (406) 444-2986 or pjoehler@mt.gov.

HJR 1 MENTAL HEALTH SERVICES SUBCOMMITTEE

The HJR 1 subcommittee studying public mental health services met Nov. 28. The day before the meeting, several subcommittee members toured community mental health services and talked with mental health providers.

Review of Montana State Hospital...The subcommittee heard a panel presentation on the draft report of the Board of Visitors review of the Montana State

Hospital and the state hospital's response. The subcommittee was particularly interested in reviewing the final report and recommendations. Legislative staff concluded that the report must meet the guidelines enacted by the 2001 Legislature. The guidelines require that the hospital state whether it concurs or doesn't concur with a recommendation and whether the recommendation will be implemented.

Overview of Mental Health Services...Legislative staff provided an overview of public mental health services, eligibility for services, and funding for those services. Eligibility for services, the types of services funded, and state ability to establish service types and levels varies according to funding source. Medicaid funded services are an entitlement and must include certain services. Medicaid is funded about 28% state general fund and the balance federal funds. Mental Health Services Plan services for adults are funded primarily from general fund and with 19% general fund and 71% federal CHIP (Children's Health Insurance Program) grant funds. Basic mental health services for children are funded from the general fund and that amount counts toward the state general fund maintenance of effort for the Temporary Assistance for Needy Families (TANF) Block Grant. Medicaid services are the most comprehensive, while basic mental health services for children cover prescription drugs and some outpatient and in-home services.

DPPHS Oversight...Several oversight issues, including the Department of Public Health and Human Services budget status report that showed a \$4.4 million general fund deficit, were also reviewed. Due to the projected shortfall for mental health services DPPHS has proposed several reductions. Legislative staff reviewed several proposed reductions, which include:

- eliminating of Medicaid payment for out-of-state residential treatment services if the service can be provided by an in-state provider;
- capping the number of children not in state custody for whom the department will pay room and board when they are placed in some types of out-of-home care;
- delaying implementation of provider rate increases; and
- not hiring the new FTE funded by the 2001 Legislature to help develop and provide training to law enforcement and other persons on dealing with mentally ill people. This decision has since been reversed.

Subcommittee Reviews Veterans' Mental Health Issues...Legislative staff reported that nearly 107,000 veterans and 140,000 dependents of veterans live in Montana, which amounts to nearly 25% of Montana's total population. A significant number of veterans suffer from mental illness, primarily Post Traumatic Stress Disorder (PTSD). It is not unusual for a veteran with PTSD to also have a dual diagnosis, including chemical dependency. According to estimates prepared by the U.S. Department of Veterans' Affairs (VA), as many as 50% of all Vietnam veterans suffer from "clinically serious" PTSD.

A panel of guest speakers representing mental health and chemical dependency professionals, the Montana Veterans' Affairs Division, and the widow of a veteran who

recently committed suicide identified the following issues:

- PTSD is a physiological disorder that affects the physical functioning of the brain and nervous system; it is not a character flaw.
- The VA health care system in Montana has not been a partner in helping provide a continuum of care for veterans with a mental illness or chemical dependency treatment needs.
- The lack of VA services shifts costs to Montana's public mental health system, including the Montana State Hospital.
- Getting veterans "into the VA system" so they can receive cash compensation and health care benefits can help keep them off of state-funded public assistance. The VA spends nearly \$175 million annually to provide benefits and services to Montana veterans. However, while Montana ranks 10th in veterans per capita, it ranks 27th in total VA expenditures.
- Veterans must wait at least 2 years to 4 years, sometimes longer if they appeal, for a claim to be processed and ultimately paid by the VA. The waiting period is likely to occur at the time veterans are most vulnerable and most likely to experience mental and physical health crises, job loss, bankruptcy, and family break-ups.
- Montana's general fund provides for 8 offices statewide where a veteran service officer helps veterans file claims. Their caseloads are heavy. Also, they are not case managers and have no special training to help mentally ill veterans.
- The Montana VA has made some changes, but there is significant concern that when legislative interim studies that spotlight the VA are concluded, the VA will be unresponsive.

Following the panel discussion, subcommittee members expressed keen interest in finding ways to:

- keep the spotlight on the VA;
- encourage the VA to be a partner in providing a continuum of care for mentally ill veterans;
- examine the Montana Veterans' Affairs Division and the mission of the governor-appointed Board of Veterans' Affairs with an eye toward possibly making veterans' affairs a department headed by a cabinet-level director; and
- provide for a subsistence grant program that veteran service officers could access to help veterans and their families through a crisis while they wait for their VA benefits.

Next Meeting Scheduled in February...The next HJR 1 mental health subcommittee meeting will be Feb. 7 in Helena and Feb. 8 at the Montana State Hospital. For more information please contact Lois Steinbeck at (406) 444-5391 or lsteinbeck@mt.gov.

STATE ADMINISTRATION AND VETERANS' AFFAIRS COMMITTEE

Homeland Security...To provide a forum for sharing information among state agencies and legislative interim committees, the State Administration and Veterans' Affairs Interim Committee (SAIC), is hosting an informational hearing on homeland security. The SAIC has a statutory obligation to monitor the activities of the Department of Military Affairs, which includes the Disaster and Emergency Services Division (DES). The governor's Montana Homeland Security Task Force is being coordinated under the auspices of the DES, but involves multiple agencies. The SAIC will invite the chairs and vice-chairs of each of the other interim committees to participate in the meeting. The hearing is scheduled for Jan. 24, beginning at 1:30 p.m., in Room 303 (the Old Supreme Court Chambers) of the Capitol. For more information, please contact Sheri Heffelfinger at (406) 444-3596 or sheffelfinger@mt.gov.

SJR 5 Subcommittee on Veterans' Affairs...The subcommittee that is studying veterans' health care issues and the structure and function of state veterans' services met Nov. 15 and 16. The agenda included staff reports on the demographics of veterans, the anatomy of federal and state veterans' services, and the fiscal status of the Montana Veterans' Affairs cemetery program. Staff also moderated several panel discussions in the following topic areas:

- the VA benefit claims process as the role of veteran service officers (VSOs) who help veterans file these claims;
- employment and training programs for veterans;
- health care, mental health care, and chemical dependency;
- local government and community veteran services;
- the desirability of local veteran resource coalitions to coordinate services; and
- the structure and funding of the Montana Board of Veterans' Affairs and the Montana Veterans' Affairs Division (MVAD) and whether there should be a state-level coordinating council or whether the MVAD should become a department of veterans' affairs.

SJR 5 Subcommittee to Meet in January...The next meeting of the subcommittee will be Jan. 25, beginning at 8:00 a.m. in Room 102 of the Capitol. The subcommittee will adopt preliminary recommendations to address a range of issues, including the improvement of interagency communication and coordination, the large caseload of Montana's state-funded veterans' service organizations, and making state veterans' services more "handicapped accessible" to veterans with special needs in the areas of

mental health, chemical dependency, and homelessness.

HJR 8 Subcommittee on Voting Systems...The subcommittee studying voting systems met Nov. 14. The subcommittee directed staff to prepare a bill draft, for discussion purposes only, that would ban punch card ballots by a certain date contingent on state funding to offset local costs. The primary issue is how to provide voters with a sufficient guarantee that their votes will receive equal treatment under the law and be counted fairly and equally. The issue arises from the U.S. Supreme Court's decision in Bush v. Gore, and the finding that the counting of votes in Florida in the last presidential election varied from county to county and even from precinct to precinct within the same county.

Vote counting in Montana and the training of election judges and school election administrators were the topics of several moderated panel discussions. Panels were organized by the type of voting systems used in Montana: optical scan, paper, punch cards, and lever machines. Each panel included an election administrator, an election judge, and a canvassing board member. Panel members discussed the types of mistakes voters make and the methods for counting votes. Testimony revealed that there was sufficient deviation in how votes are counted not only among counties, but within some counties, and even among counties using the same type of voting system. Reasons for the deviations included training, system costs, and the absence of specific statewide guidelines or rules. There were also some questions about the Secretary of States's authority to prescribe comprehensive rules. Staff reported that statutory language does not specifically address these issues.

Next Meeting Scheduled...The subcommittee will meet Jan. 24, beginning at 8:00 a.m. in Room 102 of the Capitol. The subcommittee will discuss the pros and cons of the bill draft to ban punch card ballots, hear testimony on how training can be improved and standardized, and adopt preliminary recommendations to address identified issues.

For more information on the activities of the State Administration and Veterans' Affairs Interim Committee, please contact Sheri Heffelfinger at (406) 444-3596 or sheffelfinger@mt.gov.

ENVIRONMENTAL QUALITY COUNCIL

Environmental Quality Council. . .The subcommittees of the EQC met Dec. 10, and the full EQC met Dec. 11. A discussion of the activities of each subcommittee follows the coverage of the full EQC.

Subcommittee Recommendation Rejected: The Subcommittee on Agency Oversight and MEPA recommended that the full EQC object to the adoption by the Fish, Wildlife, and Parks Commission of a seasonal biennial rule regarding recreational use of the Beaverhead and Big Hole rivers. The non-binding objection was to be effective May 30, 2002, in order to give the commission sufficient time to adopt the rule under the MAPA

process. Following an EQC discussion, the recommendation was rejected by a vote of 10-6. For additional coverage, see the Subcommittee on Agency Oversight/MEPA section below.

Missoula Remediation Process Reviewed: The EQC conducted an oversight review of an environmental remediation case in Missoula. Sandi Olsen and Denise Martin, Remediation Division, Department of Environmental Quality, discussed the status of ongoing efforts to develop a cleanup plan and a decision regarding soil and groundwater contamination from pentachlorophenol and dioxin at Missoula White Pine Sash, a former manufacturing plant that included a chemical wood treating process. The company responsible for the cleanup has sold the land to buyers who are eager to develop the property for other uses. Missoula mayor Mike Kadas and the new owners of the land explained that they believe that the department was slow in making decisions regarding what needs to be done at the site. Department officials indicated that it needed an interim proposal from the responsible party in order to move forward and that staff turnover and prioritization of other sites, such as Libby, have hampered its ability to remain focused on individual sites.

Sage Grouse Status Reported: The EQC received a very timely and enlightening presentation on the management of sage grouse and the potential for listing sage grouse under the Endangered Species Act. The Department of Fish, Wildlife, and Parks is developing a conservation plan for sage grouse as part of a multi-state wildlife agency effort to avoid a federal listing of the species on the endangered species list. A panel of three experts reported on the status of sage grouse in Montana and elsewhere, the public hearings that the department was conducting, the possible land use ramifications of both the conservation plan and the federal listing, if it occurs, and whether Montana should be participating in the process at all. A petition to list the sage grouse as threatened or endangered has not yet been filed with the U.S. Fish and Wildlife Service. Because the range and population of the sage grouse have been decreasing throughout its habitat, the filing of a petition is anticipated. John McCarthy, DFWP, indicated that unlike many other states, Montana still has a good sage grouse population; however, more information is needed regarding the bird population, habitat needs, and distribution in order to maintain the viability of the species. A federal listing of the species would result in significant land use impacts in Montana and elsewhere. John Bloomquist, Montana Stockgrowers Association and Ben Deeble, National Wildlife Federation, also provided important perspectives on the issue.

Council to Meet in February...The EQC's next scheduled meeting is February 8, 2002. Minutes from previous meetings, Council and subcommittee work plans, agendas, and press releases, may be found on the EQC website at <http://leg.mt.gov/Services/lep/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 444-3742 or mtheisen@mt.gov.

Coal Bed Methane/Water Policy Subcommittee . . . The subcommittee met Dec. 10 in Helena. The meeting was primarily devoted to learning about various aspects of

coal bed natural gas development.

Coal Bed Methane Development Reviewed: Montana State University professor Jim Bauder explained key concepts regarding the effects of coal bed methane product water on soils and crops. Art Compton, Department of Environmental Quality, talked about the quality of water discharged from coal bed natural gas wells and also described the system for monitoring water quality in areas of coal bed natural gas production. Representatives of industry and environmental organizations presented their perspectives on the management of water produced from coal bed natural gas wells.

Representatives of the three agencies charged with producing a statewide programmatic environmental impact statement (EIS) for coal bed methane development described the alternatives that will be considered in the document and also discussed the status of the EIS. The draft EIS, initially scheduled for release in September 2001, will be released in January 2002 or later.

Representatives of state boards and agencies with the authority to lease coal bed natural gas or to permit production-related activities discussed their processes and requirements. Bruce Williams, Montana Coal Bed Natural Gas Alliance, provided an industry perspective on permitting and leasing processes and requirements.

Marias River Permit Controversy: A panel, including representatives of the Department of Natural Resources and Conservation (DNRC), Trout Unlimited, and the Sunnybrook Colony discussed the DNRC's decision to issue a permit to the Sunnybrook Colony to withdraw water from the Marias River. Friends of the Marias and Missouri River Citizens, Inc. have filed a lawsuit challenging the decision. At issue is the amount of water that will be flowing in the river under the conditions of the permit. The DNRC has filed a motion to dismiss the lawsuit, in part because the plaintiffs did not object to issuance of the permit and have not exhausted their administrative remedies.

February Meeting Scheduled...The subcommittee is scheduled to meet again Feb. 7 in Helena. The meeting will focus on water quantity and water rights issues associated with coal bed methane development. Subcommittee members will also learn about state efforts to develop total maximum daily loads (TMDLs) for impaired water bodies. For more information, contact Mary Vandenbosch at (406) 444-5367 or by e-mail at mvandenbosch@mt.gov.

Agency Oversight/MEPA...Attorneys from the four state agencies (DEQ, DNRC, DFWP, and MDT) that produce most of the state's environmental assessment documents required by the Montana Environmental Policy Act (MEPA) met with the subcommittee at its Dec. 10 meeting in Helena. The agencies indicated that, at this time, they did not need to revise existing MEPA rules or to adopt new rules in order to implement the provisions of MEPA as revised by the 2001 Legislature. The agency attorneys cautioned that their opinions could change as the agencies gain more implementation experience with the revised statute.

John North, DEQ legal counsel, advised that the agency continues to have difficulties implementing the MEPA fee provisions that require private permit applicants to pay some of the costs of producing an EIS document. Although these MEPA

documents are rare, they can be time consuming and costly. The subcommittee is gathering information to determine if all MEPA implementation costs should be paid by the state or if the fee structure should be changed to require permit applicants to pay the full cost of preparing an EIS.

Hazardous Waste Programs: Officials with the DEQ Remediation Division described the state hazardous substance cleanup program. Sandi Olsen and staff explained how the programs are being implemented. A panel representing environmental consultants, attorneys, citizen groups, and private environmental project managers discussed some of their experiences with the state program. Ms. Olsen indicated that an annual 50% turnover of experienced environmental specialists within the department was creating difficulties in providing a continuity of services for contaminated sites that may take several years to remediate.

Subcommittee Objects to Rule: The subcommittee held a public hearing regarding rules adopted by the Fish Wildlife Commission in February 2001 that impose certain restrictions on the recreational use the Beaverhead and Big Hole rivers. The purpose of the rules is to reduce congestion on segments of those rivers during peak seasonal use. The governor's office has asked the EQC to review this issue. The EQC held a hearing on the rules in May and then referred the issue to the Subcommittee. At the Dec. 10 hearing, the subcommittee voted 2-1 to recommend that the EQC object to the adoption of the rules by the commission under a seasonal biennial rule exception found in the Montana Administrative Procedures Act (MAPA) and request that the rules be readopted by the commission under MAPA by the May 30, 2002, effective date of the EQC's objection. The EQC subsequently rejected the recommendation.

February Meeting Scheduled...The next meeting of the MEPA subcommittee is scheduled for Thursday, Feb. 7 in the state Capitol. Information about the subcommittee, meeting agendas, minutes, and reports may be found at <http://leg.mt.gov/services/lepo/subcommittees/oversightsub.htm> or you may contact Larry Mitchell, subcommittee staff, at (406) 444-1352 or at lamitchell@mt.gov.

Energy Policy Subcommittee...The EQC Energy Policy Subcommittee met Dec. 10 in Helena. The meeting was devoted entirely to energy education and information gathering.

John Hines, Northwest Power Planning Council, said that electricity markets in the Pacific Northwest have greatly improved. A year ago there was a 24% probability of rolling blackouts in the Northwest; now, there is only a 1% probability. The difference between then and now? People are using less electricity, the Northwest power system has added new thermal generation, and the hydroelectric system conditions are much improved.

Department of Environmental Quality (DEQ) energy staff Larry Nordell, Paul Cartwright, and Jeff Blend provided detailed overviews on the Montana transmission system and the western electricity markets, Montana's electricity supply and demand, how electricity markets work, and the relationship between natural gas and electricity. Additional information was presented on Montana's universal system benefits programs

and Montana's state energy efficiency and renewable energy programs.

The subcommittee reviewed the Energy Law Handbook draft table of contents. The Energy Law Handbook is an educational publication designed to help legislators and Montanans understand the morass of energy laws related to electricity and natural gas. The subcommittee also discussed a staff memorandum on benchmark dates for major energy issues and decisions.

Subcommittee Scheduled to Meet Feb. 7...At the next meeting, the subcommittee will hear reports on Montana electric cooperatives, power marketing, electric industry restructuring, energy initiatives, and public power in other states.

Copies of staff memorandums and subcommittee agendas, minutes, and the work plan can be found at:<http://leg.mt.gov/services/lepo/subcommittees/energysub.htm>. For more information contact Todd Everts at (406) 444-3747 or at teverts@mt.gov.

SUBCOMMITTEE ON HEALTH CARE AND HEALTH INSURANCE

Subcommittee Baselines Health Care and Health Insurance Topics...The SJR 22 Subcommittee on Health Care and Health Insurance met on Nov. 29. The meeting offered another opportunity for stakeholders to exchange information with members in an effort to develop a baseline of information on which to develop policy recommendations.

Dr. Tim Stratton, University of Montana School of Pharmacy, presented a history of prescription drug research and development and the factors that contribute to drug pricing. Stratton's PowerPoint presentation will be available on the subcommittee's website in early January.

Chuck Butler, Blue Cross Blue Shield of Montana, and Claudia Clifford, Office of Insurance Commissioner, described the Montana Comprehensive Health Association, the state's high-risk insurance pool, and the challenges the pool faces in maintaining affordable coverage for Montanans. Clifford reported that the state's congressional delegation has been asked to consider a request for an appropriation to expand the MCHA program to include an insurance product for low-income individuals. The Insurance Commissioner and MCHA board members are also researching ways to broaden the MCHA funding assessment mechanism and will provide recommendations to the next Legislature for restructuring or refinancing the program.

John Chappius and other officials from the Department of Public Health and Human Services discussed budget shortfalls in the Medicaid program, increases in provider reimbursement rates, and the Certificate of Need program. The review of the Medicaid budget set the stage for future discussions regarding program changes.

Subcommittee to Meet in February...The next subcommittee meeting is scheduled for Thursday, Feb. 14, in Helena. The tentative agenda includes:

- a summary of statewide roundtable discussions and proposals by the Office of the Insurance Commissioner;
- an update on the fiscal condition of the Medicaid program that will include recommendations from the Department of Public Health and Human Services for resolving budget shortfalls;
- a presentation on the former Montana Health Care Authority and the former Health Care Advisory Council;
- a report comparing health care and health insurance programs and policies in states where the percentage of uninsured persons is less than in Montana; and
- a discussion of recommendations that have been proposed during the previous meetings.

If you have questions about the subcommittee, please contact Gordy Higgins at 444-3064, or by e-mail at gohiggins@mt.gov.

ECONOMIC AFFAIRS COMMITTEE

Committee Meets Nov. 30 to Review Economic Development, Workers' Comp., and Other Issues...David Gibson, Office of Economic Opportunity, provided some preliminary findings and conclusions resulting from his meetings with local government officials, economic development organizations, and business owners around the state. Gibson emphasized the need to establish sensible goals for economic growth and develop performance standards to measure progress. Gibson said that a draft economic development plan will be completed during the first few months of 2002 and offered to the public for comments and suggestions. Gibson also anticipates finalizing a legislative agenda early next spring to provide an opportunity for discussion among decisionmakers.

The Department of Labor and Industry presented brief reports on workers' compensation fee schedules, the outcome of a recent meeting with the U.S. Department of Labor on travel compensation, the number of inquiries fielded by the agency related to mandatory break periods, and the pending legal challenge to SB 242 (the so-called "doughnut" bill) related to the jurisdictional enforcement of building codes.

The committee was asked to review recently adopted administrative rules governing building codes. Public testimony on the rules raised several concerns about whether the department has adopted rules that conflict with statutory language. The concerns included whether certificates of occupancy were issued, the appropriateness of incorporating the purpose of building codes in the rules since the building codes purpose is provided for in statute, definitions of "private garage" and "farm and ranch building", whether the Uniform Code for the Abatement of Dangerous Buildings was indeed part of

the body of building code rules, and the requirement that Montana licensed engineers be required to approve pre-engineered structures. The committee requested that the department respond to these concerns at the next meeting.

Committee to Meet Feb. 15...The committee's next meeting is scheduled for Feb. 15. The agenda will include a report from the Department of Labor and Industry on the decision related to workers' compensation fee schedules for chiropractors, physical therapists, and occupational therapists. The department is also preparing a response to the concerns raised regarding the recently adopted building codes rules. If you would like more information about the February meeting, please contact Gordy Higgins at (406) 444-3064 or by e-mail at gohiggins@mt.gov.

REVENUE AND TAXATION COMMITTEE

Accounting Degree not Required..."I thought it was going to be two days of numbers!" said a new (and pleasantly surprised) observer of the meetings of the Revenue and Transportation Interim Committee (RTIC) shortly after the committee adjourned its third meeting of the interim. This newbie couldn't have chosen a better meeting than that of Dec. 3 and 4 to experience the gamut of RTIC's responsibilities and interests.

RTIC's meeting began with the all-too-familiar image of the World Trade Center towers ablaze and concluded with talk of trophy homes and hobby farms. Two days of numbers? Hardly.

Transportation of Hazardous Materials and Homeland Security...During the 2001 legislative session, Rep. Sylvia Bookout-Reinicke introduced a study resolution (HJR 36) that requested an exploration of the possible rail transport through Montana of high-level radioactive waste and spent nuclear fuel from Hanford Site in Washington to Yucca Mountain, Nevada. Instead of a Do Pass recommendation, the Senate Highways and Transportation Committee asked RTIC to look into the broader subject of transportation of hazardous materials as part of its interim work. This was 5 months before the subject suddenly assumed a level of significance no one could have imagined.

With Rep. Bookout-Reinicke's resolution and Sept. 11 in mind, RTIC requested a presentation from Jim Greene, administrator of the state's Disaster and Emergency Services Division of the Department of Military Affairs and head of Gov. Martz's Homeland Security Task Force. Although RTIC's primary interest revolves around the transportation of hazardous materials, the committee needed some basic disaster response information on which to base any further work it may want to pursue.

Greene provided data on the make-up and mission of the Homeland Security Task Force and the State Emergency Response Commission, stressing that resource availability at the local emergency response level continues to be a problem. Greene noted that although the threat of terrorism demands attention, preparedness, and resources, a major earthquake remains Montana's most likely large-scale disaster.

Jane Ellis, Missoula County Disaster and Emergency Services (DES) manager, explained the local emergency response activity in the aftermath of the 1996 railroad

derailment and chemical spill near Alberton. Ellis stressed that initial response to these kinds of episodes are largely local government responsibilities and that hazardous materials emergency response training is not uniform among local fire departments, sheriff departments, and DES agencies across Montana. Ellis reiterated the need for training resources at the local level and asked that the Legislature refrain from instituting training requirements without funding them properly.

Jim Kraft, the Yellowstone County DES manager, discussed the functions that must be coordinated in hazardous materials emergencies -- primarily planned, controlled, and conducted at the local level. The functions Kraft elaborated on are: alert and warning; direction and control (incident command); communication; public information; fire, rescue, and decontamination; law enforcement and traffic control, emergency medical involvement; public health department involvement; evacuation and "shelter in place"; resource management and finance (awareness of the "price tag" attached to decisions made by responders); and recovery, a significant portion of which the state Department of Environmental Quality conducts.

The common theme through the handful of presentations made was the need for training and funding for local entities.

Other interim committees have an interest in the activities of the Homeland Security Task Force and in much of the material that RTIC received on Dec. 3. Because of its statutory link to the Department of Military Affairs, the State Administration Interim Committee has taken a lead role which is discussed elsewhere in this publication.

RTIC members agreed, however, that they will continue to explore aspects of the transportation of hazardous materials, specifically by rail and by commercial motor carriers. Topics the committee wants to explore further include bridge inspection (both highway and railroad), assessing fees on carriers of hazardous materials, hazardous materials endorsements on motor carrier licenses, and the distinction between federal duties and state responsibilities when interstate commerce is involved.

Recruitment Woes at the Department of Transportation... Jim Currie, deputy director of the Department of Transportation (MDT), provided data on recruitment of civil engineers, comparing the entry-level salaries and benefits offered at the department with those of transportation agencies in other states and with the private sector. As is the case with the information technology profession, state governments are not able to offer salaries and benefits that compete with what private consulting firms are offering, resulting in long-vacant positions and recruitment challenges.

Montana compares well with other states, offering \$30,433 to an entry-level civil engineer. Wyoming offers \$28,200, Utah \$31,970, South Dakota \$34,154, and Nevada \$38,169. Currie reported that of 55 civil engineer graduates from the Montana university system in 2000, 19 accepted jobs outside Montana at an average salary of \$43,556; 5 graduates stayed in-state receiving an average salary of \$34,000, and 3 began work for MDT at a starting salary of \$28,381. In 1999, out of 51 graduates, none opted to accept employment at MDT after spring graduation, while 19 accepted employment out-of-state.

By raising the starting salary to \$30,433, the department hopes to compete more favorably -- something that is becoming even more critical as legions of long-time employees in key positions begin to talk of golfing, winters in Arizona, fly fishing, and all the other trappings of retirement.

Department of Revenue Potpourri... Kurt Alme, Department of Revenue (DOR) director, and his staff reported on a number of ongoing activities at the department. Included among DOR's reports was an update on HB 124 ("The Big Bill") entitlement share payments and the DOR's new responsibility under HB 124 to collect hail insurance premiums, per capita livestock fees, and forest fire protection fees. Before the enactment of HB 124, these fees were payed with property taxes to the county treasurer's office, which then forwarded the money to the state for processing.

DOR also discussed its progress in complying with the provisions of HB 143, regarding the taxation of pass-through entities. Section 15 of HB 143 provides that "the department shall review, with the assistance of interested parties, the reporting and taxation of income that is flowing through pass-through entities and the method of reporting and taxation of this income in states other than Montana and shall consider recommendations concerning the methodology that Montana should use to ensure fair and equitable taxation of income that flows through pass-through entities to other entities." DOR is required in HB 143 to report its findings to RTIC.

Pass-through entities (partnerships, S corporations, and disregarded entities) are legal entities, separate and distinct from their owners. A pass-through entity may own property, enter into contracts, sue or be sued, and incur debt, but it is not subject to individual or corporation income taxes. However, the partners, shareholders, and other owners of organizations are subject to tax on the income received from Montana sources.

DOR plans to compare Montana's tax treatment of these entities to the tax treatment the entities receive in other states and will report to RTIC later in the interim on its research.

DOR provided updates on streamlining the liquor license procedures and on processing individual income tax returns. The backlog of amended individual income tax returns has been cleared, but the wage based withholding and unemployment insurance category remains backlogged, primarily due to POINTS implementation.

DOR presented a POINTS status report, including discussions of current functionality, defect remediation, POINTS II progress, the POINTS budget, the findings of Dr. Joel Henry, a software engineering specialist retained by DOR to help achieve POINTS I stabilization (Dr. Henry was also on hand to discuss his findings with the committee), and near term goals. The goals are to:

- implement Dr. Henry's recommendations to improve the timeliness and effectiveness of defect remediation process and procedures;
- achieve an appropriate resolution of outstanding contract disputes;
- review existing approaches to POINTS maintenance and, with Dr. Henry's assistance, develop a longer-term maintenance plan; and
- to achieve implementation of a thoroughly tested Phase II income and corporate taxes application.

RTIC is statutorily required to act as the legislature's liaison with DOR and DOR is required to present POINTS status reports to RTIC as provided in HB 2 and HJR 2.

However, other legislative committees also have a keen interest in monitoring this project. At DOR's request, Legislative Audit Division staff conducted an independent assessment of POINTS implementation last summer. The Audit Committee remains interested in closely following the department's activities, as are members of the Legislative Finance Committee, many of whom will be making decisions on the DOR's budget during the 2003 legislative session. In an effort to reduce duplication and to avoid three separate entities sending mixed messages to the department, the three committees have agreed to appoint members to a POINTS subcommittee.

At this stage, it is unclear just how the subcommittee will operate and how the subcommittee's activities will be coordinated with the activities of the three full committees. Because of the language in HB 2 and HJR 2, DOR must continue to provide regular POINTS status reports to RTIC, regardless of the existence of the coordinating subcommittee.

Rep. Devlin attended the December meeting of the Audit Committee on RTIC's behalf and will be one of RTIC's members of the subcommittee. It has not yet been decided who the additional subcommittee members will be. Stay tuned for the roster.

SJR 21 Study of Agricultural Land Taxation...RTIC spent the afternoon of Dec. 4 discussing its assigned study. Committee staff provided a legislative history of agricultural land taxation in Montana, an analysis of how Montana's agricultural land tax system compares with other western states, and a list of policy questions. DOR staff provided statistics on the number of parcels, acres, and estimated property taxes paid on non-qualified agricultural land (parcels between 20 and 159 acres that do not meet the \$1,500 income test or for which the owner has not applied to be considered agricultural for property tax purposes).

The Montana Association of Realtors, the Montana Smart Growth Coalition, and the Montana Stockgrowers Association all provided testimony.

February's edition of *THE INTERIM* will contain a more thorough description of the information and testimony given during RTIC's SJR 21 discussion.

Committee to Meet in February...RTIC is scheduled to meet next on Feb. 7 and 8. If you have any questions about the committee and its activities, you may find the answer on the committee's website at http://leg.mt.gov/Interim_Committees/Revenue_Transportation/index.htm. If not, please contact Leanne Kurtz, committee staff, at lekurtz@mt.gov or at (406) 444-3064.

CHILDREN, FAMILIES, HEALTH, AND HUMAN SERVICES COMMITTEE

Committee Recommends Study Not Be Conducted...The Legislative Council accepted the recommendation of the committee not to conduct the SJ8 study on the privatization of foster care and adoptive services. Members of the committee are still interested in the topic and will continue to monitor foster care and adoption services, but do not have the resources to conduct the study at this time.

Committee to Meet in February...The next meeting will be Feb. 12 and 13 in Helena. The committee will review the activities of the DPHHS Child Support Enforcement Division, Disability Services Division, and Operations and Technology Division. The special topic will be tribal issues such as welfare reform, budget reductions, and cooperative agreements, and the government-to-government relations between the tribes and the DPHHS. In addition to the tribal issues, brief presentations will be made by Lifespan Respite representatives, the Office of Public Instruction on the Montana Youth Risk Behavior Survey, and the Montana Transportation Partnership. The committee will continue to keep apprised of the various studies conducted in conjunction with other committees and will receive a legislative fiscal analysis on the DPHHS budget in addition to the director's budget report. The committee will tour the centralized intake area of the Child and Family Services Division.

If you are interested in being placed on the interested persons list, please contact Susan Byorth Fox, Research Analyst, Legislative Services Division, at (406) 444-3597 or at sfox@mt.gov.

DISTRICTING AND APPORTIONMENT COMMISSION

First Round of Public Hearings...The first public hearings on proposed regional plans for new legislative districts for northcentral and central Montana were held Nov. 13 in Great Falls and Nov. 14 in Browning. The northcentral region includes Glacier, Pondera, Toole, Liberty, Hill, Blaine, Teton, Chouteau, Cascade, Judith Basin, Fergus, and Petroleum counties. The commission will accept written comments on this region until Feb. 7, 2002. Maps of the region are available through the "Redistricting" link on the legislative website.

Public Hearings Scheduled...The commission will meet for the next public hearings on Jan. 16 in Havre and Jan. 17 in Glasgow. Havre completes the hearings on the northcentral region and Glasgow will provide a public hearing on the northeast region of Phillips, Valley, Daniels, Sheridan, and Roosevelt counties and revisiting Hill and Blaine counties. Regional maps and descriptions and staff analysis have been sent to the clerk and recorders, central committees, and legislators in the affected regions. The meeting schedule is as follows:

Jan. 16, 2002

Justice Center Meeting Room

1450 2nd St. West

Havre

3:00 p.m. Executive session (open to public but no public testimony)

7:00 p.m. Public hearing, public testimony accepted.

January 17, 2002
 Community Room
 Valley County Courthouse
 Glasgow

1:00 p.m. Public hearing, public testimony accepted.

The commission will also meet Feb. 19 in Miles City and Feb. 20 in Lewistown, and again in mid-March at which time the first two regional plans will be tentatively adopted.

Written Testimony Solicited...Please send any written testimony c/o Susan Fox at the Legislative Services Division. She will distribute the information to all commissioners. The commission will not make any decisions on plans until after written testimony is received. The next region to receive staff visits will be the Crow and Northern Cheyenne reservations and Big Horn and Yellowstone counties in January, followed by counties in southcentral Montana.

For more information or to be placed on the commission's interested persons list, please contact Susan Byorth Fox at the Legislative Services Division, P.O. Box 201706, Helena MT 59620, (406) 444-3597, or sfox@mt.gov.

LEGISLATIVE AUDIT COMMITTEE

The Legislative Audit Committee met December 17-18, 2001, in Room 102 in the Capitol. The following reports were presented:

Performance Audit

Area Agencies on Aging, Department of Public Health & Human Services (01P-10)

This report contains information on the controls related to the Aging Services Bureau and the Food Distribution/Commodity Warehouse Section's administration over Area Agencies on Aging Program. The Aging Services Bureau contracts with 11 Area Agencies on Aging to provide services to older Montanans. Services include nutritional services and support services such as transportation, ombudsman, legal, in-home and health screenings. Recommendations in this report include:

- ensuring that critical program requirements are included in monitoring activities of Area Agencies on Aging;
- ensuring that all Montana communities have access to ombudsman services and Aging Services Bureau tracks ombudsman services by facility;
- requiring that area agencies follow state plan requirements for funding allocations;
- increasing emphasis on the need for accurate MASTS information as

part of training activities and annual assessments of individual Area Agencies on Aging.

The report also discussed a federally identified concern relating to incorrect funding allocations made to the multi-reservation Area Agency on Aging. The Aging Services Bureau is negotiating with the Federal Administration on Aging to resolve the issue.

Financial-Compliance Audits

Department of Administration (01-12)

This report documents the results of the financial-compliance audit of the Department of Administration (department) for the two fiscal years ended June 30, 2001. The previous audit report contained 18 recommendations to the department. The department implemented 15 recommendations, and did not implement 3 recommendations.

This report contains 12 recommendations directed to the department.

The first section in the report discusses ways in which the department can improve controls over financial management, cash, inter-entity loans, and payroll. There are four recommendations related to implementing a financial management control structure over cash and disbursements.

The second section discusses ways in which the department can improve compliance with state laws. The audit reviewed the rates charged and fund equity of the department's internal service funds. There are two recommendations related to accounting for internal service fund activity as required by law. There are three recommendations related to other state compliance issues such as duplicate accounting systems, bid and performance security, and the approval of exempt staff.

The third section discusses ways in which the department can improve compliance with federal laws and regulations. There is one recommendation to the department related to reporting Payments in Lieu of Taxes (PILT).

The fourth section reports various accounting misclassification and other reporting errors on the state's accounting records. This section includes two recommendations.

The LAD staff issued a qualified opinion on the financial schedules contained in the report for each of the two years under audit. This means the reader should use caution when using the presented financial information and the supporting data on the state's accounting records.

Department of Commerce (01-13)

This report documents the results of the financial-compliance audit of the Department of Commerce for the two fiscal years ended June 30, 2001. LAD staff issued an unqualified opinion on the financial schedules contained in this report. This means the reader may rely upon fairness of the presented financial information and the supporting data on the

accounting system.

The previous audit report contained seven recommendations. The department implemented three, partially implemented two, and did not implement two. The recommendations not implemented concern untimely bank examiner's reports and equitable allocation of computer system development costs among the professional licensing boards and programs. The recommendations partially implemented relate to Professional and Occupational Licensing Board compliance with state laws and repayment of Coal Severance Tax Trust Fund moneys.

This report contains six recommendations concerning adequate controls to ensure compliance with federal regulations, adequate documentation for federal administrative expenditures, Professional and Occupational Licensing Board's compliance, and untimely distribution of bank examiners reports and one disclosure issue.

Department of Public Health and Human Services (01-11)

This report documents the financial-compliance audit of the Department of Public Health and Human Services (PHHS) for the two fiscal years ended June 30, 2001. LAD staff determined the status of audit recommendations made to PHHS in the previous audit. Of the 23 recommendations still applicable to the agency, PHHS implemented 9, partially implemented 7 and did not implement 7.

LAD staff issued a qualified opinion on the financial schedules for each of the two years under audit. The opinion discusses misstatements of \$50,724,127 and \$6,711,913. The reader should use caution when analyzing the presented financial information and the supporting data on the Statewide Accounting, Budgeting and Human Resources System.

This audit report contains 24 recommendations to PHHS. The issues discussed in this report include noncompliance with federal regulations concerning cash management, earmarking, and reporting. Issues include discussion of various accounting errors and incomplete or nonexistent reconciliations between PHHS's primary accounting records, its subsystems, e.g. Child and Adult Protective Services (CAPS), and its federal reports. These issues could have been prevented, or detected and corrected in a timely manner, if PHHS had an efficient and effective financial management control structure in place. The report recommended implementation of an adequate financial management control structure in the first report recommendation.

Department of Transportation (01-14)

This report documents the results of the financial-compliance audit of the Montana Department of Transportation for the two fiscal years ended June 30, 2001. LAD staff issued an unqualified opinion on the financial schedules presented in this report. This means the reader may rely on the presented financial information and the supporting information on the state's accounting system.

The prior audit report contained 11 recommendations still applicable to the department. The department implemented eight and did not implement three of the recommendations.

This report contains seven recommendations directed to the department. Six recommendations relate to developing, implementing and monitoring internal controls related to securing federal funds on a timely basis, timely deposits, disbursements, establishing procedures to monitor all federal funds subgranted, and reconciling cash change funds held outside the state treasury. One recommendation relates to compliance with specific state law concerning calculation of vehicle rental rates in the Internal Service Fund.

Financial Audits

Board of Investments, Department of Commerce (01-03)

LAD staff performed a financial audit of the Board of Investments for the fiscal year ended June 30, 2001. This report contains the audited financial statements and accompanying notes for fiscal year 2000-01. LAD staff issued unqualified opinions on the financial statements of the Board of Investments' Retirement Funds Bond Pool, Trust Funds Bond Pool, Short Term Investment Pool, Montana Stock Pool, Montana International Equity Pool, Montana Real Estate Pool, All Other Funds, and Enterprise Fund.

This report contains no recommendations.

Public Employees' Retirement Board, Department of Administration, a component unit of the state of Montana (01-08)

This report contains the financial statements and an independent auditor's report for the Public Employees' Retirement Board as of June 30, 2001 and 2000, and for the two fiscal years then ended. These statements demonstrate the financial position and results of operations for the Section 457 Deferred Compensation Plan and the following retirement systems:

- Public Employees' Retirement System;
- Municipal Police Officers' Retirement System;
- Game Wardens' and Peace Officers' Retirement System;
- Sheriffs' Retirement System;
- Judges' Retirement System;
- Highway Patrol Officers' Retirement System;
- Firefighters' Unified Retirement System; and
- Volunteer Firefighters' Compensation Act

This report contains no recommendations.

Teachers' Retirement System, Department of Administration, a component unit of the state of Montana (01-09)

This report contains the financial statements and our independent auditor's report for the Teachers' Retirement System as of June 30, 2001 and 2000, and for the two fiscal years then ended.

This report contains no recommendations.

Board of Housing, Department of Commerce (01-07)

LAD staff performed a financial audit of the Montana Board of Housing for the fiscal year ended June 30, 2001. This report contains the audited financial statements and accompanying notes for fiscal year 2000-01. LAD staff issued an unqualified opinion on the financial statements of the board. The opinion means the reader may rely on the financial statement information presented.

The audit report contains no recommendations.

Montana State Fund (01-05)

LAD staff performed a financial audit of the Montana State Fund for the fiscal year ended June 30, 2001. This report contains the audited financial statements and accompanying notes for fiscal year 2000-01, with comparative fiscal year 1999-00 amounts. LAD staff issued an unqualified opinion on the financial statements. The opinion means the reader may rely on the financial statement information presented.

This report contains no recommendations.

Montana Guaranteed Student Loan Program, Commissioner of Higher Education (01-06)

LAD staff performed a financial audit of the Montana Guaranteed Student Loan Program for the fiscal year ended June 30, 2001. This report contains the audited financial statements and accompanying notes for fiscal year 2000-01. LAD staff issued an unqualified opinion on the financial statements. The opinion means the reader may rely on the financial statement information presented.

This is an annual limited scope audit performed to attest to the fairness of the financial statements of the Montana Guaranteed Student Loan Program. Audit recommendations, if any, identified during this limited scope audit will be included in the biennial financial-compliance audit of the Commissioner of Higher Education's Office.

Next Meeting...The next Legislative Audit Committee Meeting is tentatively scheduled for March 25-26, 2002.

DEAR MASON AND ROBERTS

Dear Mason and Roberts: I just got elected to the Legislature and somebody decided that I should be the presiding officer of a committee, so I decided that I'd better figure out what I am supposed to do. I keep hearing people say that I should pull my chair up to the table, so I have been preparing to do that even if there isn't a festive tablecloth or any food on the table! However, I am particularly confused by what it means when someone says that they want to "table" a bill. How is tabling a bill accomplished, and is it anything like when my cousin just sits there for a really long time after everyone finishes

eating while he waits for someone else to pick up the "bill" and pay for the meal? I know I have a lot to learn about this whole committee process, but can you explain to me this "table" talk in a straightforward manner?

Inquiringly yours,
Rep. John Q. Clueless

Dear Rep. Clueless: First of all, congratulations (or condolences) on your election to the Legislature. I'm glad to hear that you are ready to step up to the plate, and hopefully it will be easy for you to figure out if your plate is empty or full or if Sparky is going to throw you a high, hard one. Unlike the bill for your meals at the restaurant, which eventually has to be picked up and paid by someone before the restaurant closes, a legislative bill can remain untouched on the table until the Legislature adjourns. Because there are some quirks to tabling bills, we'll explain the rules through a series of questions. But remember this: no matter what happens, always keep your elbows off the table!

Q: Why would I want to table a bill in committee? What's the point?

A: A motion to table a bill is used to delay consideration of the bill until the committee decides to reconsider it. In Montana, a motion to table is often used to "kill" a bill. If no subsequent action on the bill is taken by the committee, a tabled bill remains in the committee; it is not reported out for consideration by the Committee of the Whole. (The Committee of the Whole is the convening of an entire House or Senate into a committee for the purpose of transacting business.)

Q: After a motion to table is made in a standing committee, may the motion be debated or amended? How many votes do I need to table a bill in committee?

A: No, you may not debate (Senate Rule 50-60, House Rule 50-80) or amend a motion to table (House Rule 50-100). You need an affirmative vote of the majority of committee members present to table a bill (House Rule 30-50).

Q: Let's say that I want my committee to take action on a bill after it has been tabled. How do I do that?

A: If you want the committee to act on a tabled bill, a committee member must make a motion to take the bill from the table. To pass, this motion needs the affirmative vote of the majority of members present. Just like a motion to table, a motion to take a bill from the table may not be debated (House Rule 50-80) or amended (House Rule 50-100). Once the bill is taken from the table, you may make a motion of "do pass", "be concurred in", etc.

Q: In a standing committee, when is it appropriate to make a motion to table a bill or to take a bill from the table?

A: A committee member may make a motion to table a bill or take a bill from the table at any time during executive action on the bill. The motion may be made as the

initial motion on the bill or offered as a substitute motion to a "do pass" or "be concurred in" motion.

Q: If a bill is amended and then tabled, do the amendments "stick" to the bill as it lays on the table?

A: Yes, if a bill is amended and tabled and later taken from the table, the bill before the committee is in its amended form. But note that if a bill that has been amended and tabled in a standing committee is taken (i.e., "blasted") from the committee by a motion made in the Committee of the Whole, printed, and placed on second reading, the second reading version of the bill that will be considered by the Committee of the Whole does not contain the standing committee amendments.

Q: What about tabling a bill or taking a bill from the table on the House or Senate floor? What rules apply then?

A: In Montana, we don't usually table bills on second reading in the House or Senate. Instead, in the House, a motion is made to postpone consideration to a date certain, such as the 90th legislative day. This motion needs an affirmative vote of the majority of the Representatives present. In the Senate, a motion may be made to indefinitely postpone action on the bill. To be successful, this motion needs an affirmative roll call vote of a majority of Senators present and voting. When a bill is postponed indefinitely, it is finally rejected and may not be acted upon again during the biennium except upon a motion to reconsider (Senate Rule 50-50).

On the other hand, House and Senate rules do allow a member to table a bill or take a bill from the table under Order of Business No. 9, motions. As is the case in a standing committee, these motions may not be debated or amended (Senate Rule 50-60, House Rule 50-180). To table a bill in the House or Senate, you need an affirmative vote of the majority of members present. Likewise, in the Senate, a motion to take a bill from the table requires the same vote. However, in the House, a motion to take a bill from the table requires an affirmative vote of three-fifths of the members present and voting (House Rule 50-150).

Do you have rule questions that you would like us to cover in this column? If so, send them to Lois Menzies, Legislative Services Division, PO Box 201706, Helena, MT 59620-1706 or lomenzies @mt.gov.

BACK PAGE

WHO PULLED THE PLUG?

By Jeff Martin, Legislative Research Analyst
Legislative Services Division

"Brains are like light bulbs, they can be turned on or they can be turned off"--Kenneth Lay, Chairman Enron Corp.

INTRODUCTION

For just under a thousand bucks you can purchase *Enron 2001: An Inside View* published by Global-Change Associates. If I read the table of contents correctly, that amounts to about \$12.50 a page to find out if Enron is the "right model for your organization." The come-on line says that the report provides valuable insight into the firm's operations and analyzes its successes and failures. The report will tell you about Enron's structure and operations, how it recruits and trains new employees, and how it empowers and compensates its employees. According to the executive summary, Enron started out as a sleepy little gas pipeline somewhere in Texas, but over the last decade its stock value grew by over 2,500% while annual revenue grew to \$100 billion in 2000 and the company was No. 7 on Fortune's list of the 500 largest corporations. Earlier this year, Enron's stock was selling for \$84.88 a share. Then the collapse. In December Enron filed the largest ever Chapter 11 bankruptcy. For a brief time it was a two-bit company (that's 25¢ for you Gen-Xers). The effects of the collapse of the largest energy broker in the world are reverberating throughout the energy and financial markets, as well as affecting pension funds and the Houston art world. So far, millions of words, barrels and barrels of ink, yards of news print, and an unknown number of 0s and 1s have been devoted to chronicling Enron's demise. The purpose of this article is to briefly summarize the rise and fall of Enron and to discuss some of the repercussions of the collapse.

THE HEADY RISE OF ENRON

Absent the full "insider's" report, the executive summary provides some useful insights to the Enron's corporate philosophy. In 1985, Kenneth Lay, the company's CEO and Chairman, completed a merger between Houston Natural Gas and InterNorth of Omaha, Nebraska. The new Enron became an interstate natural gas company with approximately 37,000 miles of pipeline. The company rose "from [an] inauspicious gas pipeline company to [an] aggressive global market maker. . .". Enron established 3 core business areas, including wholesale services, energy services, and global services. In addition, it developed broadband services and provided financial and risk management services. Enron's asset-based businesses included natural gas pipelines in the United States (Northern Natural Gas Co., the Transwestern Pipeline Co., and a 50% share of the Florida Gas Transmission Co.) and in South America; Portland General Electric; power plants in

China, Guam, India, and the Phillippines; engineering businesses; and a water system in Great Britain. It operated in over 40 countries.

The corporate culture of Enron has been characterized as "entrepreneurial, aggressive, and result-oriented". Although corporate policy was determined at the top, Enron relied on its employees for growth and profitability. For example EnronOnLine, the mainstay of the corporation's profitability, was created by a 29-year-old employee in Europe. The system was designed for commodity trading and was developed in just 7 months.

For those who are squeamish about such things, Enron apparently was not a particularly loyal employer: when it decided that someone was no longer useful, that person was replaced. Similarly, Enron had no strong attachment to any of its product lines or services regardless of profitability. It had no compunction about dropping a business if a better opportunity existed, despite the risk.

Enron had long been a champion of restructuring the electrical energy markets. Under the new wholesale market structure, Enron became a power marketing broker, buying energy from utilities and independent power plants and reselling it to retail customers. Enron developed a variety of transactions that included, among others, a fixed price for long-term contracts, price insurance and other hedges for volatile markets, and energy swapping. Enron was the largest wheeler and dealer in the power markets, accounting for about 25% of the natural gas and electricity traded in the United States.

STAGGERING FALL

As we ask in the Southwest, "que paso?" A lagging economy and falling energy prices contributed to Enron's decline. However, its ultimate failure may have been of its own doing. Poor investment decisions and questionable "off balance sheet" transactions with outside investment and energy partners caused Enron to overstate its earnings and understate its debt. In early November, Enron filed revised financial statements with the Securities and Exchange Commission to account for \$586 million in losses since 1997. This followed a reported third quarter loss of \$638 million.

Despite Enron's falling stock price and obvious financial difficulties, Wall Street analysts continued their strong buy recommendations. It may have been this rosy outlook that encouraged Dynegy Inc., another Houston-based energy company, to rescue its crosstown rival. Dynegy, about 1/3 the size of Enron, would acquire the company for about \$23 million, including \$10 million in stock and the assumption of \$13 million of Enron's debts. Unfortunately, the deal began to unravel when Enron revised its third quarter losses and disclosed \$690 million in debt that had come due. Following these revelations, Dynegy began negotiations to reduce the purchase price, but the deal fell apart after Enron's credit rating was reduced to junk status. Dynegy cited Enron's deteriorating credit status and assorted misrepresentations as the reasons for pulling out. The blow was too much for Enron to absorb, and it filed for reorganization protection under Chapter 11 of the federal Bankruptcy Code in early December. Included in the filing are subsidiaries in the wholesale energy trading business; retail energy marketing

operations; transportation services; a pipeline holding company; broadband services and trading operations; and Enron Metals & Commodity Corporation. Companies not included in the filing include Northern Natural Gas Pipeline, Transwestern Pipeline, Florida Gas Transmission, Portland General Electric, and several international entities. Enron also filed suit against Dynegy for pulling out of the deal and to prevent it from taking control of the Northern Natural Gas pipeline. Dynegy claims that it is entitled to the pipeline under terms of an agreement in which Dynegy invested \$1.5 billion in Enron.

RIPPLES OF COLLAPSE

There are far-reaching consequences associated with the decline and fall of Enron. The repercussions at the corporate level are palpable. About 4,500 employees were laid off by Enron. Once lucrative retirement nest eggs held by Enron employees have been virtually wiped out, affecting some 11,000 employees whose 401(k) funds were invested heavily in Enron. Unlike traditional retirement plans there are generally no limits on how 401(k) funds may be invested. In reaction to Enron, Senators Barbara Boxer (D-Calif) and Jon Corzine (D-NJ) have introduced legislation that would limit to 20% the investment an employee could have in any one stock in a 401(k). Other investors in Enron stock have suffered a loss of wealth to the tune of \$60 billion. As noted above, Wall Street had remained upbeat about Enron even as its stock was selling for less than a buck. A multitude of energy companies and financial institutions were also "exposed" to Enron under a variety of secured and unsecured financial arrangements. This latest debacle follows closely the collapse of high-tech and telecommunications stocks. Again, market analysts (not to mention bond rating agencies) may find themselves subject to more scrutiny and control by Congress and federal regulators.

Although the impact of Enron's collapse on financial markets, investors, and Enron employees has been fairly well documented, it is less clear what the impact will be on energy markets and on the fate of energy deregulation (or restructuring, if you prefer). Apparently the disappearance of Enron from the energy markets has had little effect on the existing supply of electricity.¹ However, some plans for additional generation capacity may be put on hold because financial institutions may be unwilling to commit resources to a market that is perceived, rightly or wrongly, to be in trouble.

¹Several large industrial customers in Montana, including Louisiana-Pacific Corp., Smurfit-Stone Container, Ash Grove Cement Co., and Holnam, Inc., were power supply customers of Enron. Section 69-8-208, MCA, requires the distribution services provider (i.e. the Montana Power Co.) to provide an "emergency" supply of electricity in the event the electricity supplier of a customer is unable to do so. This provision was included in Montana's original restructuring legislation in 1997 (Senate Bill No. 390).

Restructuring had already suffered a setback following California's dismal experience (the state's governor, regulators, and energy suppliers, including Enron, have all been blamed for the failed experiment). Opponents of deregulation argue that the Enron bankruptcy is proof positive that regulatory oversight is required. Proponents maintain that the failure of Enron will have little effect on the emergence of competitive markets. On the other hand, some supporters of competition point out that the wholesale energy markets have not sufficiently "matured" to allow deregulated retail markets. Improved transmission infrastructure and the approval of regional transmission operators will enhance the development of wholesale markets. These improvements may not materialize in the next few years. The U.S. Congress appears willing, in both the House and Senate, to move forward with restructuring legislation; however, legislation will likely be delayed until more discussion about what happened to Enron has occurred.

Since 1996, 25 states have opened their power markets to competition either through legislation or regulatory order. California has suspended competition, while 7 other states, including Montana,² have delayed competition for a variety of reasons. The transition to competition has not been as smooth as expected and will likely become more bumpy. Although competition does not guarantee success, Enron's fall will inevitably catalyze the political debate, and rancor, over restructuring for a long time.

²The other states are Arkansas, Nevada, New Mexico, Oklahoma, Oregon, and West Virginia.



INTERIM CALENDAR

UNLESS OTHERWISE SPECIFIED,
ALL ROOM DESIGNATIONS ARE IN THE CAPITOL BLDG.

JANUARY

- January 9, State-Tribal Relations Committee, Room 102, 9 a.m.
- January 10, Postsecondary Education Policy and Budget Subcommittee, Room 137,
1 p.m.
- January 11, Education and Local Government Committee, Room 137, 9 a.m.
- January 24, HJR 8 Subcommittee on Voting Systems, Room 102, 8 a.m.
- January 24, Transmission Subcommittee (TAC), Room 102, 1 p.m.
- January 24, State Administration (Homeland Security), Room 303, 1:30 p.m.
- January 25, SJR 5 Subcommittee on Veterans' Affairs, Room 102, 8 a.m.
- January 25, Universal Systems Benefits Programs Subcommittee (TAC),
teleconference
- January 25, Legislative Council

FEBRUARY

- February 7, EQC Subcommittees
- February 7 and 8, HJR 1 Mental Health Services Subcommittee
- February 7 and 8, Revenue and Taxation Committee
- February 8, EQC
- February 12 and 13, Children, Families, Health, and Human Services Committee
- February 14, Subcommittee on Health Care and Health Insurance
- February 14, Transition Advisory Committee subcommittees
- February 15, Transition Advisory Committee, Room 317
- February 15, Economic Affairs Committee