The Interim Newsletter

A Monthly Publication
April 2014 Issue

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Click on the Events Calendar for up-to-date information on committee meetings.

Highlights from Legislator Survey

Prepared for the Legislative Council
March 2014

The Legislative Council sponsored a recent survey of legislators. There were two parts to the survey: legislator compensation and expenses, and legislative calendar and scheduling. More than 75 percent of legislators responded to the survey, with 72 percent of senators and 77 percent of representatives participating.

Part 1: Legislator Compensation and Expenses

Constituent issues: The average legislator spends 20-40 hours each month directly on constituent issues. A few spend fewer than four hours, and several spend more than 100 hours a month. Forms of contact mentioned were phone time, attending meetings or events, email time, and face-to-face contact.

Postage: The average legislator incurs postage expenses of $5-$10, although there were four legislators who spent at least $100-$500 on postage. Many legislators mentioned that they use email, the internet, and the phone instead of mailings. *(Note: Legislators receive a box of stationery and envelopes during session that is paid through the Feed Bill; additional orders are charged to the legislator.)*

Gasoline: The majority of legislators spend $40-$200 of their own money on gas each month for legislative duties during the interim; $50 and $100 were the most common answers. Legislators with four or more counties in their district averaged $130 a month on fuel. Twelve legislators responded that they spend $200-$500 a month.

Communications: The most common answer to the question of how much money is spent on average on phone, computer, and internet during the interim was $10-$49 a month, averaging $24. The median amount was $50-$70 a month, but answers ranged from $0-$1,400. *(Note: The amounts reported do not include amounts reimbursed by the $1,000 technology allowance, which allows up to $150 during the biennium for email.)*

Meals, lodging: Half of legislators spend $50-$60 a month or less on meals and lodging for legislative work during the interim, although one-third of the legislators said they spend $100-$400 a month.

Meetings: Legislators reported that they attend at least two to four meetings or gatherings a month with a range of up to eight meetings a week.

Unreimbursed expenses: The most common response from the legislators regarding unreimbursed expenses during the interim was time spent on correspondence, legislation, keeping up on issues, meeting with constituents, community members, or other legislators and candidates, press conferences, panels, and local events. Several legislators mentioned the unpaid time from work. Other expenses that were not commonly reimbursed were registration fees, dues, and salary for attending conferences and other events, printing and photocopying, and vehicle maintenance and depreciation. *(Note: The IRS mileage rate used when legislators are reimbursed for mileage is based on an annual study of the fixed and variable costs of operating an automobile, currently 56 cents per mile.)*

Summary: Expenses

Legislators spend a lot of time and money during the interim on legislative business. Most legislators spend between one to five days per month on legislative business, not including interim or administrative committees. For most legislators, postage does not seem to be a major expense as compared to fuel, meals and lodging, phone, computer, and internet expenses. A monthly allowance of $150-$250 a month would cover most legislators' expenses, with some legislators not spending that amount now, and others who would be able to do more. However, an allowance would not cover all expenses of those who reported higher expenses. Legislators with large districts have higher fuel costs not necessarily be covered by this allowance. An allowance of $150 per month per legislator would cost $22,500 per month. An allowance would provide legislators $3,000 for the 20-month interim at a total cost of $450,000.

Part 2: Legislative Scheduling and Calendar

Questions were asked on the following categories:

- a five-day work week;
- a delayed start;
- a two-month session each year;
- the inability to recruit; and
- other ideas and comments.

Five-day work week?

- Legislators were split on a five-day work week, with 47 legislators responding "Yes," and 46 legislators responding "No."
- Although the question was framed assuming that the traditional end of session would not be delayed, a primary concern was that the session would end in April as it does now.
- Some advantages mentioned were: ability to work their regular job or fulfill professional obligations on weekends; more time for personal issues, family, friends, and constituents; and time to recharge and read bills.
- There was concern for whether there would be enough time to get their legislative work done, and that it may make the days in the work week even longer.

Five-day work week and Saturday sessions?

- Saturdays during session prompted many comments ranging from "Saturdays were a waste of time" to "How critical Saturdays were at transmittal and at the end of session." Other comments said that Saturdays could be put to better use such as having committee meetings. There was a concern that the work week was full already, and that floor sessions may run into committee hearing times, which would make the committees go later or hinder the committee work. One mentioned that his constituents like to come to Helena on Saturdays because they don't have to work.
- Travel for legislators was mentioned many times. Many legislators stated that they lived too far to travel on two-day weekends, especially if Friday is a busy day, and that it would be an additional cost. Some did not want more dead time on weekends, and others said that Saturday afternoons are a busy time.

Delay start of session to later in January or February?

- Three-quarters of legislators answered that delaying the start of the odd-year session until later in January or early February would be better for preparation and discussion of legislation. A later start would enhance the ability to organize and develop budget amendments and policies, and it would enhance the potential for training and integration of new legislators.
- Positive comments on delaying the start of session (even to February or early March) included the ability to have better revenue estimates, the new governor would have more time to prepare, more time for preparation and training, and more time to hold hearings on complicated issues. One commented the session should be delayed a full year after election for more time to learn the process, for preparation and training, and to potentially hold committee meetings before the session starts.
- Negative comments included the fact that the end of session may be delayed into May or June, that it would be hard on those in agriculture, construction, and other business interests. Comments indicate that starting

earlier is better for one legislator's business interests, and another stated that a few weeks makes no difference: It's better to get started and be done.

- There were numerous mixed comments on delaying the start of session, with legislators seeing both positives and negatives – and raising new questions. One legislator didn't want the number of days reduced; one agreed that it would give more time for organization, but was worried that it would generate more time for more bills; some thought it could be better or worse; and some worried that the session would need to run longer. One commented that until they are actually looking at legislation, it may be difficult to see what bills are actually working through the process. Another commented that little may get done until they are actually in session.
- Some comments regarding delayed session start: All agreed that time between the election and session is compressed, leaving little time for new legislators to get up to speed or to draft bills. Training in November and December was noted as hard because it is in the middle of the Christmas season. One commented the start date is not the problem, it is getting the public and interest groups engaged.

Meet in session two months every year?

- A majority of legislators agreed that two months every year would be better than the current schedule for the following reasons: the ability of the public to participate in consideration of complex legislation; the ability of the legislature to vet and consider many complex bills and issues; an opportunity for the legislators to participate in the budget process; the ability of agriculture-based legislators to return home earlier in the spring; the ability of citizens to get time off or be able to serve; the ability of legislators to learn and serve in the first term and allow increased training; and the expansion of the pool of citizens who would consider serving.
- Positive comments regarding a split session of two months each year referred to annual sessions as an idea whose time has come – and 46 states have it right. One stated a year to prepare for session and get some bill drafts in would be more productive. One suggested considering laws one year and the budget in the next year.
- Negative comments questioned how to do budget process in half the time, raised concerns for staffing just two months every year, reiterated the difficulty finding housing or lodging, and wondered if costs to legislators would rise. There was also a concern that annual sessions are just an opportunity to spend more money. A couple of legislators stated that most legislators would not be able to take two months from their profession each year. There were questions regarding whether there were significant-enough policy bills for a strict policy session and a concern that all legislators should serve on an appropriations committee for a budget session. Several suggested increasing the amount of annual days to three months or 60 days. One wanted a budget session every year.
- Some legislators were mixed in their response. One liked splitting the session into budget and policy sessions, but thought that more bills would be introduced and that there may be a tendency to kick the can of tough bills down the road to the last meeting of the biennium. One stated it would depend on the design of the annual sessions and another that there would be trade-offs with many employers – so perhaps there is "no difference". Some wanted more days altogether; others wanted either 45 days each year or 40 days followed by 50 days.

Inability to recruit candidates because of four-month session?

- The question regarding the inability to recruit good candidates was split – 49 percent stating "Yes," and 51 percent stating "No." Affordability was a major concern, with many mentioning the low pay and loss of wages. The negative political atmosphere with mud-slinging, disrespect, partisanship, the caustic nature of politics, and nasty campaigns were mentioned. Practicality and not being able to leave occupations for four months was mentioned. Going into March and April is problematic. Term limits, time away from home and family, and lack of child care were also mentioned.

Other ideas and comments

- Other ideas for improvement to the legislative calendar included: doubling the terms for less campaign time and more continuity, limiting absences from committees, setting expectations for committee chairs and making days more productive, not separating appropriations from the regular time or process, and more education.
- Suggested changes to the current session included: more time to legislate, more aggressive planning of legislation before session and in the first month, planning for two- or three-day weekends to provide opportunity to work at home; joint subcommittee hearings on the budget prior to session similar to Wyoming and North Dakota, time for political parties to reach out to the newly elected legislators for some socialization, a break at Day 75 or Day 85 to transmit bills to the Governor and await vetoes or amendatory vetoes, having a five-day work week, not wasting the first week with orientation, and not having Saturday sessions for the first three weeks of session. Ac-

cess to flex funding or compensation for child care was mentioned three times.

- Suggestions for later sessions such as: delaying the start of session, starting session in October, or a one-year delay. There were many comments regarding annual sessions, such as meeting five days a week over the summer annually, with 45 days a year maximum; meeting every year for three months starting in February; going to 60 days a year and doubling the pay; having annual sessions of no longer than 70-90 days total; having longer sessions in one year, such as 50 days; and funding standing committees year-round. There was a suggestion for one session for new bills and a budget, and the other session only for repeal of current laws. Even-year sessions received a few comments to allow a full year of training for new legislators. One suggested that if the even year was used to adopt or amend the budget, the time frame would be compressed to a matter of weeks.

Summary: Calendar

A majority of legislators believed that delaying the start of session would enhance the ability of legislators in numerous areas, but there was little support for going any later in the year. Annual sessions had some support, but comments indicated that the "devil is in the details." Many believe a budget session one year and a policy session the next year (or vice versa) was a good idea, although the Legislative Council received information indicating this may not be realistic – plus some legislators did not like the idea.

Some legislators support changes in the current structure to be more efficient. Some two- or three-day weekends and a break in the latter part of session appear realistic, with the caveat of not adding more days and travel reimbursement costs. Some suggested more efficient use of Saturdays, or the Legislature should only meet on Saturdays when needed. This would affect legislator compensation, as Saturday is considered a salary day when in session, but per diem would still be paid. Those provisions are statutory and may be changed. If committees are required to keep up on their bill hearings and executive action on a regular schedule, then some Fridays or Saturdays off or working Saturdays could be planned.

Bill introduction deadlines, executive action deadlines, etc., could be instituted by rule to keep the bills flowing. Bill drafting can be done as early as information is received, so as not to impede the flow of bills. If there are committees that are falling behind, perhaps Saturday committee meetings could be considered. This could be reserved for bills that may have a substantial number of constituents who could travel and have less need for state employees to testify.

Recruiting seems problematic. Only half of the legislators seem to attribute difficulty in recruiting to the four-month schedule. Low legislator pay, the negative political atmosphere, and the time away from home, family, and regular job seem to be equally problematic. The Legislative Council will be considering legislator compensation that can be accomplished through appropriation and legislation. The political atmosphere is a national and statewide issue the Legislative Council won't be able to affect except within its scope of influence.

Many legislators believe the system is working and feel the experience is a worthwhile sacrifice. They understood what they were getting into and just want to do the job. Many legislators also seem to want change, but not a clear majority and without consensus on exactly what kind of change to make.

WPIC: Water Rights Adjudication May Need Budget Boost

Officials tasked with prioritizing old Montana water rights said the process needs millions more in funding to stay on track.

More than 220,000 water users filed claims to water in the 1980s and 1990s for farms, ranches and other pre-1973 uses. The Department of Natural Resources' Adjudication Bureau is processing those claims for the Water Court, which resolves issues surrounding the claims and determines final priority lists for the state's 88 hydrologic basins.

State law requires the Adjudications Bureau to process those claims by 2015, which they are on track to do. The Water Court – with technical assistance from the DNRC – finalizes the claims and adjudicates any disputes in court proceedings. This process is expected to wrap up in 2021.

Beth McLaughlin of the Supreme Court Administrator's office, which oversees the Water Court budget, told the Water Policy committee March 18 the two agencies need $2.9 million to $3.5 million per year to finish the job by 2021. These amounts are more than the law allows – $1 million per year – so a legislative fix is necessary, McLaughlin said.

Also, state negotiators said talks with the Confederated Salish and Kootenai Tribes need to be reopened to fix a portion of their proposed water rights settlement.

Chris Tweeten, chairman of the Reserved Water Rights Compact Commission, which brokered the deal with the tribe, said the two sides need to fix some legal aspects of the Water Use Agreement. The agreement is an appendix to the water compact not passed by the 2013 Legislature. The agreement spells out the required instream flows and irrigator allowances under the new compact.

CSKT attorney Rhonda Swaney said the tribe is likely willing to discuss the narrow fix, but is otherwise satisfied with the settlement and the protections it offers for existing users.

Water Policy Interim Committee Chairman Chas Vincent, R-Libby, asked a CSKT representative if the committee could receive flow data used to calculate proposed instream flows and irrigator allowances.

Also on March 18, the committee:

- Heard testimony from a Colorado water rights attorney, who described a judicial test for resolving intractable disputes between irrigation ditch owners and landowners, whose property the ditch crosses. State law does not allow any alteration of a ditch by a landowner. The committee is studying this issue as part of the House Joint Resolution 26 study.
- Discussed proposed administrative rules related to nutrient limits for nitrogen and phosphorus. The rules, which have been under discussion since 2000, would allow for long-term variances, as industry representatives told the committee that affordable technology does not exist to meet some of the proposed limits.

Next Meeting

The committee meets next on May 12-13. For more information on the committee's activities and upcoming meeting, visit the committee's website or contact Jason Mohr, committee staff.

Committee Website: www.leg.mt.gov/water
Committee Staff: jasonmohr@mt.gov or 406-444-1640.

RTIC's May 6 agenda: Taxpayer Appeals, Oversize Load

The Revenue and Transportation Interim Committee will meet May 6 in Room 172 of the Capitol.

Taxpayer Appeal Study

The committee will continue its study of the taxpayer appeal process with agenda items devoted to a history of the Workers' Compensation Court, an analysis of court workloads, information on mediation options, and a background on representation before the State Tax Appeal Board. Staff will also present a bill draft requested by the committee to allow industrial property taxpayers to appeal directly to the State Tax Appeal Board.

Oversize Load Study

Part of the afternoon of May 6 will be spent on the committee's study of the movement of oversize loads in Montana. A Legal Services Office staff attorney, Jaret Coles, will present a committee-requested legal opinion on local government oversize permits. The committee will also receive a briefing on statutory impediments to private industry cooperatively funding oversize load corridors, plus some data on the number and type of oversize load permits issued. There will also be time on the agenda specified for a discussion of whether oversize load corridors should be established and, if so, who should establish them, how they should be funded, and which roads should be included.

Other Agenda Items

An agenda item on local government reimbursements and financing was carried over from the last meeting and is scheduled for the May meeting. The committee will also receive additional information about a Department of Revenue-proposed rule to prohibit the establishment of tax increment financing districts that cross school district boundaries. As part of the committee's review of required advisory councils, staff will present a bill draft requested to clarify the advisory council for the Multistate Tax Compact, and a representative of the Scenic-Historic Byways Advisory Council will respond to committee questions raised at the last meeting.

Rounding out the agenda are agency updates from the Departments of Revenue and Transportation and a general fund revenue update from the Legislative Fiscal Division.

The agenda for the meeting and meeting materials will be available in late April.

Next Meeting

The committee meets next on May 6 in room 172 of the Capitol Building. For more information on the committee's activities and upcoming meeting, visit the committee's website or contact Megan Moore, committee staff.

Committee Website: www.leg.mt.gov/rtic
Committee Staff: memoore@mt.gov or 406-444-4496

LJIC to Resume Studies of Family Law and Parole System

On April 28, the Law and Justice Interim Committee will continue studying Montana's parole board and process. It will also consider several proposed changes to family law procedures and laws.

Both proposals in the family law study attempt to increase the use of and access to mediation services in parenting disputes. One proposal would require district courts to adopt rules mandating that parents involved in a parenting or visitation dispute go to mediation before taking the dispute in front of a judge. There would be an exception for situations that involve domestic abuse. Another proposal would allow

the Montana Supreme Court to establish a pilot project to provide a set amount of free mediation to litigants in selected judicial districts. The proposal is modeled on a North Dakota court initiative that provides up to six hours of free mediation services to parents involved in a dispute over parenting and visitation time. Also, comments will be sought on several proposals that would clarify or streamline other family law processes.

The committee will also review draft language for proposals to revise the authority of the Board of Pardons and Parole and the parole process in general. The topics include:

- requiring audio or visual recording of all parole hearings conducted by the board;
- revising what provisions of the Montana Administrative Procedure Act apply to the board;
- restricting the board's ability to set conditions of parole; and
- revising the criteria used by the board when making parole decisions.

Draft language of all family law and parole proposals will be available for review before the April meeting, and the agenda will include time for the public to comment on each proposal. None of these proposals are formal bill drafts yet, meaning the committee must still vote on a proposal if the committee members want to have it as a committee bill for the 2015 Legislature.

Other topics on the April agenda include an update on the state's re-entry task force, a look at South Dakota's work with the Pew Center for the States to identify and implement changes to the state's corrections and criminal justice systems, an overview of the South Dakota parole system, a presentation from the county attorneys on their legislative agenda for 2015, and additional information about relief from disabilities provisions that other states have enacted to restore a person's right to possess and purchase firearms after a mental health commitment.

Next Meeting

The committee meets next on April 28 in Room 172 of the Capitol in Helena.

For more information on the committee's activities and upcoming meeting, visit the committee's website or contact Rachel Weiss, committee staff.

Committee Website: www.leg.mt.gov/ljic
Committee Staff: rweiss@mt.gov or 406-444-5367

Finance Committee Report: Projected Ending Fund Balance at $352 million

The Legislative Finance Committee (LFC) met in Helena on March 13-14 to resume study of the State of Montana pay plan. Legislative staff provided reports on the history and legal parameters of the state broadband pay plan, and a panel of union representatives explained the pay negotiation process to committee members. The committee asked the staff to prepare additional information for the next meeting on:

- gender equity within the broadband plan;
- the process of employee performance evaluations (in particular merit based pay); and
- increases in funding within the broadband pay plan when additional funding is unauthorized by the legislature.

The Legislative Fiscal Analyst provided an update on the 2015 biennium budget status, including the projected general fund ending fund balance and emerging budget issues of all funding sources.

The projected 2015 general fund ending fund balance was reported at $352.9 million with general fund revenue collections nearly even with fiscal year 2013 amounts and slightly above the overall growth estimate contained in Senate Joint Resolution 2. The report focused on emerging budget issues, like a $9.2 million general fund shortfall in the Department of Public Health and Human Services, a $2.4 million general fund shortfall in the Office of Public Defender, and $2.0 million less-than-anticipated appropriations for the Office of Public Instruction, due to an underestimation of guaranteed tax base aid payments. Staff will continue to monitor the emerging budget issues and provide an updated report to the committee at the June LFC meeting.

In accordance with Title 17, Chapter 7, Part 3, MCA, the LFC reviewed the proposed fiscal year transfer supplemental appropriation submitted by the executive branch. The proposal requested $1.6 million for Office of Public Defender costs associated with caseload increases, death penalty costs and retirement payouts. The committee voted to send a letter to the Governor's Office of Budget and Program Planning stating that the committee concurred with the transfer with no concerns identified.

Members spent most of the second day of committee listening to the State Chief Information Officer (CIO) explain the progress of the state information technology projects. In particular, the department explained the new work plan between the state and Xerox Corp. to deliver the Medicaid Management Information System (MMIS). The state CIO explained that the new work plan provided a 16-month extension on the contract. The committee expressed its disappointment

that the MMIS project was no closer to completion than when the committee last met in December and that the project timeline had been extended. The committee voted to form a subcommittee to meet once a month to provide oversight of the progress made on the MMIS project. Chairman Llew Jones, R-Conrad, appointed Rep. Pat Noonan, D-Ramsay, Sen, Mary Caferro, D-Helena, Rep. Rob Cook, R-Conrad, and Senator Rick Ripley, R-Wolf Creek, to the subcommittee.

Legislative Fiscal Division staff prepared a sample general fund status sheet that will serve as a model for reporting on the general fund status during the legislative session. In addition, the LFA discussed the comparison of biennial appropriations and the statute guidelines and calculation methods for determining the comparison. The committee requested that the biennial comparison be performed during the legislative session and be included as part of the general fund status sheet.

Other Business

In other business, the LFD staff updated the committee on the upgrade of the statewide budgeting system known as IBARS. Staff indicated that they will meet with the contractor the last week of March to review areas of concern. While some issues need further discussion with the contractor, LFD staff reported that the project should remain on schedule. The committee also heard an update on pension activities and the building of a pension model into both Excel and R Statistical software by LFD staff. Finally, the committee heard from local government representatives explaining their infrastructure needs.

Next Meeting

The committee meets next on June 5-6.

For more information of the committee's activities and upcoming meetings, visit the committee's website or contact Amy Carlson, legislative fiscal analyst.

Committee website: http://leg.mt.gov/fiscal
Committee staff: acarlson@mt.gov or 406-444-2986.

Legislative Council Reschedules for April

The Legislative Council meeting and public hearing has been rescheduled for April 4. The council will continue its exploration of legislative practices in other states and include information on public outreach, staffing, legislator compensation, and orientation and training.

The results of a survey sent to all legislators on legislative compensation and scheduling will be presented to the council and posted on the council's website. For an overview of the survey results, please see the related article, "Highlights from the Legislator Survey," in this edition of The Interim.

Next Meeting

After the April meeting, the council is tentatively scheduled to meet again June 10. A new link on the council's webpage contains all materials prepared related to legislative improvement.

For more information on the committee's activities and the upcoming meeting, visit the committee's website or contact Susan Byorth Fox, committee staff.

Committee Website: www.leg.mt.gov/legcouncil
Committee Staff: sfox@mt.gov or 406-444-3066

Energy Committee wants Consumer Counsel Look at Renewables

The Energy and Telecommunications Interim Committee (ETIC) is requesting the Montana Consumer Counsel complete an analysis of the impacts Montana's renewable energy mandate has on Montana ratepayers.

ETIC members met in Helena on March 21 to continue examining the impacts of Montana's renewable portfolio standard (RPS). As directed by Senate Joint Resolution 6, the ETIC is focused on the economic impacts of the RPS, the environmental benefits of the standard, and the impacts the standard has had on Montana consumers.

Since 2008, the Montana Renewable Power Production and Rural Economic Development Act, better known as Montana's RPS, required certain utilities to procure a percentage of their resources from renewable resources.

To capture customer impacts, the ETIC reached out to utilities and electricity suppliers required to meet the mandate. In the fall of 2013, those entities received a survey from the ETIC. Montana's largest utilities indicated that the RPS has had a minimal impact on retail customer rates. Utilities, however, raised concerns about their ability to maintain a balance between customer needs and available resources, if the standard is increased. Entities representing renewable energy generators in Montana disputed many of the comments made by utilities. Comments included a concern that utilities were unfairly comparing highest-cost RPS resources to market purchases. The Public Service Commission shared information on the complexities of determining the precise impact the RPS has on ratepayers.

ETIC members agreed to send a letter to the Montana Consumer Counsel requesting their input on the issue. The Montana Consumer Counsel is the constitutional entity responsible for representing residential and small business interests in matters before the PSC. The Consumer Counsel office is made up of five individuals. There is a Legislative

Consumer Committee made up of four legislators that appoints and advises the Consumer Counsel. Responsibilities of the Consumer Counsel include monitoring proposed legislation and participating in the legislative process on behalf of Montana consumers.

Next Meeting

The ETIC meets May 8 and 9 in Great Falls. The committee will begin developing its findings and recommendations based on its study of the Montana RPS. The committee also plans to tour Rainbow Dam and host a discussion of NorthWestern Energy's proposed purchase of hydroelectric dams.

For more information on the May meeting, visit the committee's website or contact Sonja Nowakowski, committee staff.

Committee Website: www.leg.mt.gov/etic
Committee Staff: snowakowski@mt.gov or 406-444-3078

Money, Land, and Water Dominate EQC Meeting

HB 609 Hunting and Fishing License Study

The Environmental Quality Council (EQC) reviewed multiple preliminary recommendations from the governor's Fish and Wildlife Licensing and Funding Advisory Council for simplifying the structure of the state's hunting and fishing licenses and for generating additional revenue for fish and wildlife management programs. As currently proposed, the advisory council's package adds an estimated $6.23 million in additional funding for the Department of Fish, Wildlife, and Parks (FWP) each year.

House Bill 609 (2013) directed the EQC to study the state's hunting and fishing license system. The council has incorporated the advisory council's effort into its work plan.

Thus far, the advisory council preliminary recommendations include:

- reducing the time between legislative review of the license structure and prices from approximately 10 years to four;
- standardizing the pricing of free and discounted hunting and fishing licenses currently offered to youth, seniors, and disabled hunters so that they cost 50 percent of equivalent full-priced licenses;
- consolidating youth license pricing from three age groups to two;
- raising the age at which seniors are eligible for discounted licenses from 62 to 67;
- creating a base hunting license ($10 for residents and $15 for nonresidents) that must be purchased before an individual species tag; and
- increasing nonresident moose, sheep, mountain goat, and bison license prices from $750 to $1,250;
- capping the price of the nonresident B-10 big game combination and B-11 deer combination licenses at $999 and $625 respectively;
- repricing the "Come Home to Hunt" (87-2-526, MCA) and "Nonresident Relative of a Resident" (87-2-514, MCA) licenses so that they are both priced at 50% of the equivalent full-priced nonresident license. Currently "Come Home to Hunt" licenses are full-priced and "Nonresident Relative of a Resident" licenses are four times the resident price.
- increasing fishing license prices for residents from $5 to $8 for a two-day license and from $18 to $24 for a season license;
- increasing fishing license prices for nonresidents from $15 to $26 for a two-day license and from $60 to $86 for a season license;
- converting the 10-day nonresident fishing license into a seven-day license for $56 (currently the 10-day license is priced at $43.50); and
- changing the Fish and Wildlife Commission refund policy for nonresidents who are unsuccessful in the March 15 permit drawing so that FWP may retain only 10 percent (instead of 20 percent) of the fee for a returned license.

After reviewing the advisory council's preliminary recommendations, the EQC had additional questions about FWP's projected expenditures and the use of so-called "earmarked" funds that are set aside for specific purposes. The EQC will discuss those topics at its May meeting. The advisory council next meets on April 17 to finalize its recommendations for presentation to FWP Director Jeff Hagener.

SJ 15 Study of Federal Land Management

Two speakers on federal land management explained their views on the "three Cs" -- cooperation, coordination, and collaboration -- that come into play when the desires of locals are confronted with national policy.

Doyle Shamley, the chief executive officer of Veritas Research Consulting, specializes in natural resources and the lines of jurisdiction of varying levels of government. Randy Phillips represents the Chief of the Forest Service as Liaison to the National Association of Counties in Washington, D.C., and is responsible for developing programs of mutual interest between county governments and the Forest Service.

Management of federal lands in Montana and other states is the responsibility of federal agencies under powers granted by Congress. However, states and local entities may influence decisions in a number of ways.

Many land management decisions are subject to the National Environmental Policy Act (NEPA), which requires federal agencies to integrate environmental considerations into the planning and decision-making process. Federal agencies required to comply with NEPA must do so in "cooperation with state and local governments" or other entities that have jurisdiction by law over the subject action or special expertise.

A cooperating agency can expect to be asked to provide information to the lead agency as well as providing some staff support. A cooperating agency will normally use its own funds. In short, cooperating agency status allows a state or local government a seat at the table when it comes to identifying issues and developing information.

Laws governing the Forest Service and the Bureau of Land Management (BLM) also speak to state and local influence. The Forest Service, under the Multiple-Use Sustained Yield Act of 1960, and the BLM, under the Federal Land Policy and Management Act of 1976, are required to coordinate their natural resource and land planning processes with those of state, local, and tribal jurisdictions.

County commissioners and residents of Mineral County also testified about working with federal land managers.

The EQC is directed to study federal land management by Senate Joint Resolution 15, sponsored by Sen. Jennifer Fielder, R-Thompson Falls, and passed in 2013. A work group of the EQC meets twice a month.

CSKT Water Compact

The EQC voted 13-3 to ask the Water Policy Interim Committee to consider the proposal made by Reps. Nancy Ballance and Keith Regier and others to study various aspects of the proposed water rights settlement with the Confederated Salish and Kootenai Tribes.

The EQC requested a report at its May 2014 meeting on how the WPIC plans to address this request.

Other Topics

The EQC also received updates on bison management, the Greater Sage-grouse Habitat Conservation Strategy, FWP's forest management plan, the discarded Dana Ranch land exchange proposal, proposed rules and variances for nutrient for discharges into state waters, the state water plan, the renewable resource grant and loan program, and the sand and gravel deposit program.

Next EQC Meeting

The EQC meets next on May 14-15 in Helena. For more information on the Council's activities and upcoming meeting, visit the EQC's website or contact Joe Kolman, council staff.

Council Website: www.leg.mt.gov/eqc
Council Staff: jkolman@mt.gov or 406-444-3747

ELG to Meet April 11; Agenda Includes Electronic Records

The Education and Local Government Interim Committee (ELG) meets at 8 a.m. April 11 and expects to receive recommendations on how to improve electronic records management by state and local government. The Subcommittee on Shared Policy Goals for Education will meet at 8:30 a.m. April 10. Both meetings will be held in Room 152 of the Capitol.

Electronic Records Management

The committee will receive a final report from the House Joint Resolution 2 work group, which developed findings and recommendations for improving electronic records management (ERM). The work group has met monthly since October 2013 and is mostly comprised of participants from numerous state agencies and representatives of local government. The work group conducted a survey gauging the current state of ERM in the state, looked at how other states have addressed ERM, and reviewed Montana statutes related to records management. State Chief Information Officer Ron Baldwin will also address the committee with an update from a parallel investigation conducted by State Information Technology Services Division, which has focused on possible technological solutions. The committee will consider drafting of any possible committee legislation based on the work group's recommendations.

The committee will also be considering possible committee legislation related to the decennial K-12 funding study required in 20-9-309, MCA; to address school transportation reimbursements, an issue identified in a legislative audit published in May 2013; and for revisions to the process for proposing adoption or amendment of K-12 accreditation standards by the Board of Public Education and fiscal analysis of those standards. Updates from the Montana University System (MUS) and the Office of Public Instruction round out ELG's draft agenda for the April 11 meeting.

Shared Policy Goals for Education

The Subcommittee on Shared Policy Goals for Education will continue its review of the existing shared policy goals for K-12, K-20, and the MUS. Several presentations will help inform the discussion on April 10; topics include:

- the revision of Professional Educator Preparation Program Standards;
- the efforts of the Dual Enrollment Task Force; and
- the role of the Montana Career Information System in helping students plan for their futures.

Next meeting

For more information on the committee's activities, including the subcommittee and work group, visit the committee's website or contact Pad McCracken, committee staff.

Committee Website: www.leg.mt.gov/elgic
Committee Staff: padmccracken@mt.gov or 406-444-3595

Supreme Court Upholds Wheatland, Fergus Counties' Legislative Maps

On Feb. 25, the Montana Supreme Court affirmed a district court judge's opinion that upheld a disputed portion of a revised legislative district map. The Montana Districting and Apportionment Commission adopted new legislative district maps last year.

Several Wheatland and Fergus County voters filed a lawsuit in March 2013 alleging the commission had improperly amended the redistricting plan at its final meeting in February 2013. The disputed amendment changed the tentative assignments of several holdover senators, including Sen. Brad Hamlett, D-Cascade, who was assigned to represent to newly created Senate District 15 for the 2015 legislative session. Holdover senators are those senators who are in the middle of a four-year term at the time the redistricting plan takes effect. Those 25 senators represent a district from which they were elected for two years. Then, after the redistricting takes effect, they represent a district assigned to them by the Commission. Senate District 15 includes Wheatland and Fergus counties, along with Meagher, Petroleum, Golden Valley, Judith Basin, and a portion of Cascade counties.

The lawsuit was originally filed in Wheatland County, but was moved to Lewis and Clark County, after Judge Spaulding granted a motion by the defendants to transfer the case. Judge Mike Menahan, himself a former state representative from the Helena area, was assigned the case. After reading several briefs and hearing from attorneys representing each side at an oral argument, Judge Menahan granted the defendant's motion for summary judgment in early December. The decision affirmed the amendments made by the commission.

The plaintiffs appealed the decision to the Montana Supreme Court on the same day Judge Menahan released his order. The justices agreed to hear the case on an expedited schedule to ensure its decision would be issued in time to allow the Secretary of State to make any adjustments to ballots, forms, and other election materials before the end of the 2014 legislative candidate filing period in mid-March.

The Supreme Court decided without holding oral arguments on the lawsuit. Instead, they issued an order in late February that upheld Judge Menahan's initial decision. The order was short and without explanation of their reasoning, but a longer decision will be issued at a later date.

Materials related to the lawsuit and the redistricting plan are available on the Commission's website. For questions on redistricting in Montana, please contact legislative staff.

Committee Website: www.leg.mt.gov/districting
Committee Staff: districting@mt.gov or 406-444-3064.

CFHHS Focuses on Mental Health Crisis Services, Pain Management Guidelines

The Children, Families, Health, and Human Services Interim Committee decided in March to explore the costs of providing intensive mental health treatment in the community rather than at the Montana State Hospital in Warm Springs.

The decision narrowed the focus of the committee's House Joint Resolution 16 study of state-operated institutions.

Also during the March 13-14 meeting, the committee asked for a bill draft to establish guidelines on the use of narcotic painkillers for treating non-cancer pain. Members will consider that bill draft at a future meeting, as part of their Senate Joint Resolution 20 study of prescription drug abuse.

Mental Health Alternatives

House Joint Resolution 16 directed the committee to study the state institutions that serve individuals with a mental illness, intellectual disability, or substance abuse disorder. The study was to look at whether the system could be changed to provide more effective treatment or to provide services in more cost-effective ways.

In March, members heard about crisis services for individuals with a mental illness, an intellectual disability, or both. Several speakers discussed the ways in which those community services can prevent a person from being committed to the Montana State Hospital for treatment. They also outlined the cost of community services with treatment at state facilities.

In addition, Department of Public Health and Human Services (DPHHS) officials gave an overview of the programs in place to support crisis services in the community. Those programs include grants to counties for services that meet county or regional needs; payments for secure crisis beds in Bozeman, Butte, and Hamilton; and mobile crisis response for developmentally disabled individuals who are experienc-

ing a mental health crisis and may lose their placement in a community setting.

Based on information received at the March meeting and at previous meetings, the committee asked staff to develop cost estimates for:

- creating mental health crisis services in areas of the state that currently lack those services;
- providing longer-term treatment at community facilities that currently provide crisis services for up to three days;
- creating and operating 16-bed mental health treatment facilities; and
- expanding the current DPHHS effort to provide mobile crisis response for developmentally disabled clients.

The committee also will take a closer look at the discharge process for individuals who have been convicted of a crime but found to be mentally ill.

Curbing Prescription Drug Abuse

The committee continued work on the SJR 20 study with presentations on:

- the growth in prescription drug use and abuse around the country and the efforts suggested by the Centers for Disease Control and Prevention to prevent and reduce use, misuse, and abuse of the drugs;
- Montana-specific information about prescription drug overdoses and deaths, as well as efforts by DPHHS and other groups to reduce abuse of prescription drugs;
- efforts in Washington state to develop uniform guidelines for health care practitioners who prescribe narcotic drugs for treating pain; and
- recommendations from the Montana Medical Association to expand drug treatment efforts, clarify state laws on reporting suspected "doctor shopping," and provide state funding for the Montana Prescription Drug Registry. The registry is currently funded with federal grants and a $15 annual fee on prescribers. The fee is set to expire on June 30, 2015.

Jon Bennion of the Attorney General's Office also discussed a recent $6 million settlement with a pharmaceutical company. The agreement calls for $1.5 million of the funds to be used for prescription drug abuse prevention efforts.

Committee members asked staff to draft a bill similar to the Washington law that required licensing board to establish pain management and prescribing guidelines. They also asked for more information at their next meeting about the development and funding of the Montana Prescription Drug Registry.

ACA Update

A panel of three speakers provided the committee with information about the number of Montanans who are uninsured and how the federal Affordable Care Act could affect those numbers. That law requires individuals to buy health insurance or pay a tax penalty. It also provides subsidies to help people pay for insurance if their incomes are at or below 400 percent of the federal poverty level.

Economist Gregg Davis summarized the results of a study conducted for State Auditor Monica Lindeen in 2012. The study estimated that 18.1 percent of Montanans were without insurance, compared to 15.4 percent nationally. Adam Schafer, deputy commissioner of insurance and securities, said the most recent federal report showed that about 22,500 Montanans had signed up for insurance by the end of February. He said 86 percent of the enrollees had qualified for federal subsidies to help pay the costs. Christine Kaufmann of the Montana Primary Care Association said the three Montana groups that received federal funds to help people with the enrollment process held nearly 900 events from last fall through mid-March. Combined, they had provided information to more than 120,000 people on how to find, evaluate, and enroll in an insurance plan.

Other Business

Also at the March meeting:

- DPHHS Director Richard Opper said the agency is evaluating the Medicaid program to make sure it isn't paying for expensive procedures that don't improve patient outcomes. For example, he said the agency will be reducing payments for induced births that aren't medically necessary and for births involving elective Caesarean sections;
- Kelly Williams, administrator of the DPHHS Senior and Long-Term Care Division, explained the use of the division's Home and Community-Based Services Medicaid waiver;
- three providers who offer services to individuals with intellectual disabilities discussed the services they offer and the costs of providing the services, compared with the Medicaid reimbursement they receive from the state; and
- Dana Toole and Bryan Lockerby of the Department of Justice discussed the operation of the new Office of the Child and Family Ombudsman. The 2013 Legislature created the office by passing House Bill 76. The bill was developed by the committee last interim as part of its study of childhood trauma.

Next Meeting

The committee meets next on May 9 in Room 137 of the Capitol in Helena. For more information about the committee's activities and upcoming meeting, visit the committee's website or contact Sue O'Connell, committee staff.

Committee Website: www.leg.mt.gov/cfhhs
Committee Staff: soconnell@mt.gov or 406-444-3597

What is a Universal System Benefit? Check Your Monthly Utility Bill

Montana electric and natural gas customers support a variety of low-income and energy conservation programs

by Sonja Nowakowski, Research Analyst
Legislative Environmental Policy Office

If you are a customer of one of Montana's regulated utilities or rural electric cooperatives, each month you pay a few dollars or cents to assist with low-income energy needs in Montana and in some cases energy conservation and alternative energy development across the state.

The Universal System Benefits (USB)program requires all utilities in Montana, both investor-owned and rural electric cooperatives, to spend money on activities related to energy conservation, renewable energy projects, and low-income energy assistance. The USB program is established in 69-8-402, MCA.

On a NorthWestern Energy bill, the residential charge is noted under electric delivery at $.0013340 per kilowatt hour and under natural gas delivery at $.0161585 per dekatherm. On a Montana-Dakota Utilities Co. (MDU) bill the charge shows as $.001588 for electric and $.0655 for natural gas.

Using the MDU bill as an example, a customer using 916 kilowatt hours of electricity in a month, pays about $1.43 for the statutorily required electric USB. Using about 9.1 dekatherms of natural gas a month results in about 60 cents for USB programs.

Program Beginnings

USB legislation was enacted in 1997 at the time the Legislature passed electric deregulation in an effort to ensure the continued existence of public purpose programs by regulated utilities. The Legislature determined that a minimum 17 percent of total USB funds should be dedicated to low-income programs. Over the years, utilities and rural electric cooperatives, however, generally exceed that requirement. There are no minimal funding requirements for conservation and renewable projects.

Universal System Benefits money is collected through customer bills and began in 1999. NorthWestern Energy and MDU file reports with the Public Service Commission (PSC), Department of Revenue, and the Energy and Telecommunications Interim Committee (ETIC). All three entities are charged with some level of review and analysis of these programs. Rural electric cooperatives are also required to file reports with the Department of Revenue and with the ETIC. Before Sept. 15 of the year preceding a legislative session, the ETIC is required to review the USB programs and, if necessary, submit recommendations regarding these programs to the Legislature.

For electricity, the base funding level for each utility company is fixed: 2.4 percent of the utility's annual retail sales revenue in Montana for calendar year 1995. For natural gas, the PSC sets a charge based on several cost factors, with at least .42 percent of a utility company's annual revenue from the previous year dedicated to low-income weatherization and low-income energy assistance. The customer's distribution utility company is required to collect USB funds from the customer. The PSC sets USB rates for utility companies subject to its jurisdiction and the governing boards of cooperatives set rates for cooperatives.

In the past, the ETIC has clarified its responsibility to review the USB program and eliminated a sunset on the program -- making it a permanent collection on customer's bills.

Electric Charges

Figure 1 shows a simplified version of a USB collection. Rural electric cooperatives are allowed to pool their collective USB expenditures to meet the 2.4 percent threshold. They are also allowed to report collectively through a summary report prepared by the Montana Electric Cooperatives' Association. The reports are posted on the ETIC website each year.

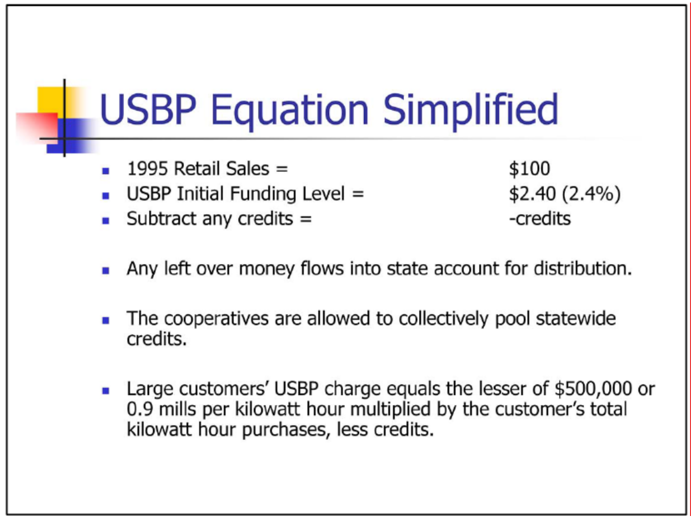
Large customers, as defined by deregulation, as customers with a load greater than a monthly average of 1,000 kilowatts,

are allowed to "self-direct" their USB funds. That means those customers obtain reimbursement of their USB payments to the utilities for internal expenditures that meet the USB objectives (conservation, low income, etc.). For example, Phillips 66 donated $20,000 to Energy Share and Barretts Minerals is replacing an old hammer mill system with a new energy efficient system. Historically there have been about 60 large customers in Montana, and generally those companies claim full USB credit for internal projects. Large customers pay .9 mils per kilowatt hour, or an amount no more than $500,000. In 2012 NorthWestern reported that 56 large customers self-directed money, for example. There were 29 large customer reports filed with the Department of Revenue. While filing the reports is required in statute, there is no penalty for not filing the reports.

Natural Gas Charges

The USB charge for natural gas in Montana is established in statute but is not as clear as the electric requirement. The law requires the PSC to determine the actual charge, but it requires that at least .42 percent of the natural gas utility's annual revenue in gas sales be dedicated to low-income weatherization and low-income energy bill assistance. Public Service Commission rules currently require natural gas utilities to spend at least 1.12 percent of their previous year's natural gas revenues on USB programs. The natural gas USB, because of the flexibility afforded in adjusting the rate, has been the subject of much discussion in the past at the PSC. Most recently, NorthWestern Energy has requested a natural gas USB charge rate adjustment. In the 2013 filing, NorthWestern proposed rates be decreased, resulting in a decrease for a typical residential customer using 100 therms of natural gas per month of about $6.69 a year.

Most USB funds are spent on projects administered directly by the utilities, cooperatives, and large customers. Revenue that is not internally allocated by those entities is directed to a state USB fund in the Department of Revenue. That money is usually split between the Department of Environmental Quality and the Department of Public Health and Human Services (DPHHS) for use on energy and low-income programs. Contributions to the state fund are quite minimal. Montana-Dakota Utilities Co. is often the sole contributor, and over the years that contribution has declined. For example, in 2007 MDU contributed $279,000; in 2012 the company contributed $29,231. But it is also important to consider where utilities and cooperatives are committing funds. The Weatherization Assistance Program at DPHHS has received up to $2 million from USB utility companies and large customers. Energy Share of Montana also receives a significant amount of revenue from these USB sources. NorthWestern Energy, for example, indicated a $575,000 commitment of combined electric and natural gas USB funds to Energy Share in 2012.



PSC Investigation, Legislative Audit

Universal System Benefits has been the source of much discussion and activity at the PSC. The funds serve energy conservation, renewable resource project and applications and low-income energy assistance -- so obviously there is much competition among those interests. In part, with the direction of the PSC, some conservation measures by regulated utilities have also been moved from the USB program to the utilities default supply portfolio.

In May the PSC issued a notice of investigation and request for comment regarding the electric and gas USB program and funding. They hosted a USB roundtable discussion and are compiling a final report on the investigation to provide policy guidance. The report finds that a number of legislative changes should be contemplated by the 2015 Legislature. The PSC goes as far as recommending the elimination of the USB program, noting that such programs should be left to the charity of various utilities. Potential legislative options identified by the PSC include:

- Exempt small utilities (Avista and Black Hills) from the USB requirement;
- Set an expenditure limt for USB natural gas programs using a formula (a percentage of pervious year's retail sales);
- Eliminate renewable energy as a USB public purpose;
- Eliminate the option to self-direct USB funds for large customers; and
- Repeal USB statutes in their entirety.

The PSC also identified some potential administrative changes to the USB program. Those changes ranged from requir-

ing an energy audit customer to pay part of the energy audit cost to requiring a customer of any USB program to pay part of the program cost. The ETIC would review changes in USB rules or legislative changes.

In addition to the PSC investigation, the Legislative Audit Division is conducting an audit of the USB program. The results of that audit are expected to be presented to the audit committee in the summer of 2014. After review by the audit committee, the findings also will be shared with the ETIC.

Recent Spending

Figure 2 shows the USB electricity obligation for 2012. It includes rural electric cooperatives and investor-owned utilities.

USB Electricity Obligation in 2012	
NorthWestern Energy	$9,372,359
Montana-Dakota Utilities Co.	$987,623
Montana Rural Electric Cooperatives	$3,724,710
Total	$13,820,236

In the most recent USB reports, NorthWestern Energy reported collecting about $9.4 million in electric USB revenues in 2012. About 37 percent or $3.4 million was directed to low-income activities. Thirty percent was self-directed by large customers. About $1.4 million was spent on conservation and $1.5 million on renewable resources and research, with the remaining $302,922 going toward market transformation. NorthWestern Energy reports that more than 15,000 low-income households were served in 2012 with electric USB funds through bill assistance, weatherization, and emergency energy assistance. Customers qualifying for LIEAP, the Low-Income Energy Assistance Program, receive the NorthWestern Energy bill discount. Northwestern Energy also partners with DPHHS and local Human Resource Councils to offer a free weatherization program.

Conservation activities include NorthWestern's Efficiency Plus or (E+) energy audit program. NorthWestern reports that a pool of 2011 and 2012 USB funds along with 2012 natural gas funds allowed for about 3,000 residential audits in 2012. Renewable Resources and Research and Development funds were largely used for net metering projects. There are about 1,100 net-metered generators in NorthWestern's service area. In 2012, about 140 projects, mostly solar projects, were completed.

NorthWestern Energy's large customers self-directed about 30 percent of the total, or $2.8 million. Of that about $102,848 was self-directed to low income activities and $2.7 million went to self-directed energy reduction activities. A few examples of energy conservation activities self-directed by large customers were noted previously.

Rural Electric Cooperatives

For cooperatives, the total minimum pool overall for USB spending in 2012 was about $3.7 million. The total minimum pool for low-income was $633,200. The cooperatives largely exceed that with all USB activities accounting for $9.8 million and the low-income pool exceeding $1.3 million. Of those totals, Flathead accounted for $5.6 million of the total. Flathead is the largest cooperative in the state, serving close to 60,000 accounts. Cooperatives can include as a USB credit the purchases from energy wholesalers, like the Bonneville Power Administration, that have been produced through conservation or renewable methods. So as an example, in 2012 the cooperatives reported spending about $7.3 million on energy conservation. Of that total, about $5.6 million was through those power purchase agreements.

Montana-Dakota Utilities Co. collected $987,623. Its large customer group collected $264,456. In 2012, MDU offered a low-income discount to all customers that were qualified through LIEAP. Low-income discounts accounted for $346,708. In addition low-income weatherization accounted for $177,000, and energy audits covered $10,000. Energy Share endowments were $35,000 and $58,000 for furnace safety and water heater programs, respectively. Conservation programs accounted for about $91,000. Under energy conservation, for example, MDU has partnered with Miles Community College to assist in the installation of a 2 kilowatt solar array at the new agricultural center there. It is also noteworthy that in the PSC investigation discussed earlier, MDU provided comments to the PSC indicating that the Department of Revenue, not the PSC, determine qualifying electric USB programs for MDU, because MDU was exempt from deregulation in 1997. MDU has encouraged the PSC to resist any effort to impose uniform USB programs on natural gas and electric utilities.

The USB program likely will be an issue discussed by the 2015 Legislature. The ETIC will examine the next set of USB reports at its May meeting. Potential legislation from the PSC would be presented to the committee in July.