



## Newsletter

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for up-to-date information  
on committee meetings.

### Council Seeks Comment on Limiting Legislator Use of Electronic Devices During Session

The Legislative Council and its Rules Subcommittee had an extensive discussion in June about the use of electronic devices in committee hearings and during floor sessions, as members considered whether to implement new rules or a new code of conduct as an appendix to the rules.

Smart phones, laptops, and tablets can be a vital research and reference tool. The legislative branch has seen the efficiency of these devices and has developed many tools to help legislators do business electronically, from creating the advanced agenda to posting House Bill 2 amendments and providing legislator Web pages that contain committee schedules and bill requests.

However, members of the public and legislators themselves are increasingly commenting that, whether in reality or in perception, legislators are not paying attention during public testimony in committee hearings because they are paying attention to their phones or using their laptop computers. They say use of the devices appears disrespectful to the public. Many legislators use such comments as an opportunity to discuss how legislators legitimately use their devices for legislative business. However, other uses of the device and the public perception raise discomfort. In addition, some legislators believe that audience members may be communicating inappropriately to other legislators and that outside communication should be limited at certain times.

There is strong agreement that committee time is the time for the public to interact with legislators and that it is vital that legislators be respectful to those providing testimony. Questions remain, though, on whether that precludes the use of electronic devices in committee or whether use of the devices on the House or Senate floor differs from committee hearings.

The council discussed the possibility of limiting the use of electronic devices in various ways, depending on the situation at hand. Ideas for guidance in committees included:

- no use of electronic devices during executive action; and

- allowing use of electronic devices for only reference and research during a committee hearing, but prohibiting or discouraging use for incoming or outgoing communication.

The following questions were raised about use of electronic devices during floor sessions.

- Should there be different rules on the floor than in committee and for different orders of business, especially second and third reading?
- What is appropriate use and should incoming and outgoing communication be allowed from the floor?
- Does receiving information on the floor perhaps provide unequal access from the public and raise a constitutional concern?
- Does use of social media allow legislators to get their message out in real time before others add their commentary or does it distract from the focus of business at hand?

Limiting access raised questions of equal access to the legislators and to the information that is being shared by or available to the public. For example, does limiting access infringe on the right of a legislator to manage his or her own affairs and free speech? What is the difference between electronic communication and a legislator being passed a note or asked to come out in the hall for a quick discussion? There also was a realization that there may be generational differences in viewing appropriate use of electronic devices during the legislative session.

These questions may have great consequence to legislators and the institution, and it is important for legislators to provide their perspectives. The Rules Subcommittee and the Legislative Council want legislators to weigh in on this discussion. The comments can provide the subcommittee and council with food for thought and consideration in the development of either rules or a code of conduct.

### Submit Your Comments

The Rules Subcommittee would like to hear the pros and cons of adopting rules limiting electronic communications either in the committee hearings or during floor sessions, especially for second or third reading. **Click here** to submit your perspective.

## Economic Affairs Looks at Funding for Livestock Agency, Licensing Boards

The question of how to pay for parts of state government is an underlying theme for the Economic Affairs Interim Committee's July 14-15 meeting as funding mechanisms for the Department of Livestock and professional and occupational licensing boards take center stage.

In addition to examining the use of per capita fees and general fund for the Department of Livestock program expenses, the committee will hear about financial concerns raised by a recent legislative audit of the department. Members also will hear options for collaborating on a shared veterinary diagnostic laboratory and wildlife laboratory as well as an agricultural laboratory, all now on the Montana State University campus in Bozeman.

While new funding options are part of the discussion for the Department of Livestock, the recording and use of fees is the subject of the licensing boards' funding discussion. Licensing boards rely primarily on fees paid by licensees. These fees go into a state special revenue account and are subject to appropriation authority by the Legislature as a way of controlling expenditures.

The Department of Labor and Industry has discussed with the boards whether a business-style enterprise fund might be used for licensing boards. That model has the potential of removing the legislative appropriation authority. The committee will hear from a representative of the Department of Administration, who will provide an overview of the various fund types and their implications.

In other business, the committee will:

- receive an update on how neighboring states label their retail milk containers. This is in relation to an earlier subcommittee exploration of Montana's 12-day sell-by date for pasteurized milk.
- hear from the Department of Labor and Industry regarding proposed changes in unemployment insurance, including a back-to-work initiative incorporating Job Service offices. A panel of Sen. Ed Buttrey and representatives of the Chamber of Commerce and the AFL-CIO will address other unemployment concerns.
- receive an update on financially troubled licensing programs and boards;
- review a bill draft putting regulation of Montana State Fund, the state's largest provider of workers' compensation coverage, under the State Auditor's Office and hear from the Legislative Auditor and the State Auditor's Office on the proposed State Fund changes;

- hear from proponents and opponents of two bill drafts addressing subrogation in certain workers' compensation cases;
- learn about a proposal for Montana to assume the safety tasks now handled by the federal Occupational Safety and Health Administration and what that transfer of duties entails;
- receive an update on how tax credits impact various income levels;
- hear from the State Auditor's Office regarding availability of information about insurance losses; and
- learn about the Montana Prescription Drug Registry and its use by workers' compensation providers.

### Next Meeting

The committee meets next at 9 a.m. on July 14 in Room 137 of the Capitol in Helena. The meeting continues at 8 a.m. on July 15. For more information on the committee's activities and upcoming meeting, visit the committee's Web site or contact Pat Murdo, committee staff.

Committee Web Site: [www.leg.mt.gov/eaic](http://www.leg.mt.gov/eaic)

Committee Staff: [pmurdo@mt.gov](mailto:pmurdo@mt.gov) or 406-444-3594

## ELG Discusses Pre-K, Digital Learning, Local Government Needs in Oil Areas

The Education and Local Government Interim Committee covered a lot of ground at its June 16-17 meeting. Topics spanned a proposal for the education of young Montanans, ideas for providing support to local governments for aging and heavily used infrastructure, and ways of using the latest technology in classrooms as well as in the management of public records.

### Education

The committee focused on K-12 education topics during the first day of its meeting. Members heard a report from the Council on Educational Opportunities for Military Children, which was formed following the passage of Senate Bill 203 in 2013. With passage of that bill, Montana joined the Interstate Compact on Educational Opportunity for Military Children. The council is focusing its initial efforts on educating Montana school administrators, counselors, and athletic directors on the needs of students of military families; advocating for military families and students if they encounter barriers in the education system; and identifying students as military-connected within the statewide student information system.

Following a brief update on the K-12 Data Task Force, the Office of Public Instruction presented several bill draft

concepts it wanted the committee to authorize for drafting and early introduction purposes. The concepts included raising the dropout age from 16 to 18 and providing funding for 19-year-old students. After committee discussion about the purposes and effects of authorizing the drafting of agency-requested legislation generally, the committee voted to authorize OPI's drafts.

The committee then reviewed LC 9309, a bill draft to create a special, temporary interim committee to reassess Montana's school funding formula. State law requires the Legislature to authorize such a study at least every 10 years. Committee members decided to submit to committee staff a list of possible areas for the study to focus on and will consider at the September meeting whether to include such a list in the bill draft.

A roundtable discussion of digital learning concluded the first day of the meeting. Colet Bartow with OPI and Bob Currie, director of the Montana Digital Academy, made brief presentations to the committee and participated in a discussion of how to use digital learning for the benefit of Montana students.

On the second day of the meeting, Shannon O'Brien and Siri Smillie, policy advisers in the governor's office, reported on Gov. Steve Bullock's proposal for universal, voluntary preschool for 4-year-olds. Committee members had a number of questions, several of which focused on the funding of the proposed program and how current private providers would be allowed to participate in it. O'Brien and Smillie acknowledged that a number of details had yet to be determined, and the committee expressed its desire to know more.

### Local Government

The committee then turned its attention to impacts on local governments in oil and gas development areas, as well as efforts and proposals to mitigate those impacts. Alec Hansen of the Montana League of Cities and Towns and Harold Blattie of the Montana Association of Counties provided information on the impacts on infrastructure and services that are being felt as the result of the Bakken development in eastern Montana. Impacts on roads and on law enforcement were two areas of emphasis, and this was reinforced by public comment from Roosevelt County Commissioner Gary MacDonald.

Department of Commerce Director Meg O'Leary provided information on the governor's proposed Eastern Montana Impact and Infrastructure Project, which would create a bond-funded, quick-start grant program for water and sewer projects. Senior Fiscal Analyst Cathy Duncan of the Legislative Fiscal Division shared a report she authored at the request of the Legislative Finance Committee. The report looked at addressing how an economically impacted com-

munity might be defined and suggested possible criteria that could be used to measure the degree of impacts experienced. She also reviewed several programs providing support to local governments that have been used or proposed in Montana, as well as several from other states. Committee members and presenters discussed the pros and cons of various ideas. Hansen encouraged the committee to modify the current resort tax statute so that more local governments would gain the authority to address these impacts themselves.

## HJR 2 and Public Records

The meeting concluded with review of two bill drafts related to the House Joint Resolution 2 study of electronic records management by state and local governments. Both drafts were recommended by the ELG-sanctioned HJR 2 Work Group, which presented its report to the committee in April.

The first draft, LC MHSC, appropriates \$208,000 to the Montana Historical Society to hire a consultant to develop a plan for a digital archives. Committee members questioned whether other states had developed similar plans that Montana might learn from and also whether a digital archives might operate as an enterprise fund. Chairman Tom Facey directed staff to investigate these possibilities and report back to the committee in September.

The second bill draft, LC OptC, reorganizes and revises Montana public records laws. Staff reviewed the draft section by section, while committee members asked questions and provided input. The committee requested some changes to the section dealing with allowable fees for information requests and also asked staff to provide information about the way the draft intersects with Legislative Council discussions regarding electronic communications and what constitutes a public record.

Both of the HJR 2 bill drafts will be reviewed again at the September meeting.

## Shared Policy Goals Subcommittee

The Subcommittee on Shared Policy Goals for Education met on the morning of June 16 and concluded its work by accepting shared policy goal documents for K-20 education and the Montana University System. The documents will be recommended for adoption by the ELG in September.

The shared policy goals were created as a result of HJR 6 and SJR 8 in 2009. They aim to advance interagency cooperation and the quality of education policymaking in the state.

The subcommittee amended the draft K-20 document to include reference to expanding career opportunities, following a roundtable discussion on entrepreneurship and education. Panelists for that discussion were Jeff Trom of Webfilings in Bozeman, Tom Hoffman of Pioneer Aerostructures in Hel-

ena, and Barb Wagner, chief economist with the Department of Labor and Industry. While acknowledging the need for a highly skilled workforce, both entrepreneurs emphasized that attitude and grit can trump educational credentials. Wagner said Montana already rates highly in terms of business ownership per capita and suggested that fostering growth among existing businesses as well as encouraging new start-ups would help boost Montana's economy.

Lt. Gov. Angela McLean visited with the subcommittee during public comment about several initiatives, including the Main Street Montana Project and the governor's proposal for universal, voluntary pre-kindergarten for Montana.

## Coming Up in September

The committee's September agenda will include:

- a report from the state historic preservation officer;
- an update from the Montana Library Association on the use of library funding as a result of House Bill 203 in 2013;
- review of the HJR 2 bill drafts and study report;
- discussion of a proposal related to local incident management; and
- review of shared policy goals for the Montana University System and K-20 and the subcommittee report.

## Next Meeting

The committee meets next on Sept. 15-16 in Room 137 of the Capitol in Helena. For more information on the committee's activities and upcoming meeting, visit the committee's Web site or contact Pad McCracken, committee staff.

Committee Web Site: [www.leg.mt.gov/elgic](http://www.leg.mt.gov/elgic)

Committee Staff: [padmccracken@mt.gov](mailto:padmccracken@mt.gov) or 406-444-3595

## ETIC to Review New Federal CO<sub>2</sub> Rules

The Energy and Telecommunications Interim Committee will learn more about how federal carbon pollution rules will affect energy markets and generation in Montana during a July 18 meeting in Helena.

In early June, the Environmental Protection Agency published rules in the Federal Register requiring states to reduce carbon dioxide emissions in the power sector by about 30 percent below 2005 levels by 2030. In Montana, carbon pollution needs to be reduced by about 21 percent by the deadline, according to the new federal rule.

The Department of Environmental Quality has indicated that the rule will affect about a dozen sources in Montana, including power plants fueled by coal and natural gas, as well

as some petroleum refining facilities. The DEQ has until 2017 to develop a plan for Montana to meet the federal target. The federal rule indicates that each state will be granted a great deal of flexibility in implementing the rule, taking into account not only how much of the state's energy generation depends upon coal but also opportunities for using renewable energy, cleaner and more efficient natural gas generation, and nuclear power to meet energy demands.

At the July 18 meeting, the DEQ will provide the committee with its preliminary review of the federal rule.

The committee also will spend much of its meeting developing findings and recommendations related to its study of Montana's renewable portfolio standard. 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.

As directed by Senate Joint Resolution 6, the committee has focused its interim work on the economic impacts of the RPS, the environmental impacts of the standard, and the impacts the standard has had on Montana consumers. The committee in May released a draft report to the public for comment but agreed to wait on developing its findings and recommendations until the July meeting.

### **9-1-1 Review**

The committee also will hear and discuss the Public Service Commission's legislative proposals for the 2015 session and will host a discussion about the use of 9-1-1 funds.

The 2013 Legislature passed and approved legislation requiring fees collected for wireless enhanced 9-1-1 services to be reallocated to wireless 9-1-1 jurisdictions and wireless providers under certain circumstances. While the reallocation has helped to better distribute money, some entities have raised concerns about the amount of money that is still "stranded" in the 9-1-1 fund that could be used by other 9-1-1 related entities, such as emergency service and public safety providers.

### **Next Meeting**

The committee meets next on July 18 in Room 137 of the Capitol in Helena. For more information on the committee's activities and upcoming meeting, visit the committee's Web site or contact Sonja Nowakowski, committee staff.

Committee Web Site: [www.leg.mt.gov/etic](http://www.leg.mt.gov/etic)

Committee Staff: [snowakowski@mt.gov](mailto:snowakowski@mt.gov) or 406-444-3078

## **EQC to Consider Possible Legislative Proposals**

The Environmental Quality Council in July will ready several reports and recommendations prior to releasing them for public comment. The next-to-last meeting of the council includes a review of hunting and fishing licenses, discussion about state historic properties, and debate about federal land management.

### **HB 609 Hunting and Fishing License Study**

As requested in May, the EQC will review the statutory changes needed to implement proposals from a citizens' advisory council to alter Montana's hunting and fishing license structure and fees.

The advisory council developed its recommendations at the request of the governor and in response to a \$5.75 million annual shortfall that the Department of Fish, Wildlife and Parks says it's facing to maintain current services and operations in its fish and wildlife management programs. The advisory council's recommendations would provide an estimated \$6.129 million in additional revenue per year. The extra money would be set aside for use as contingency funding should a new, unfunded mandate arise, such as management of a species removed from the endangered species list.

The EQC has expressed concern about building contingency funding into the proposal. Members will review the draft language, particularly the proposed fee changes, in July before deciding whether to send a bill draft out for public comment in August.

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

For more information on the HB 609 study, contact Hope Stockwell, legislative research analyst, at 444-9280 or [hstockwell@mt.gov](mailto:hstockwell@mt.gov).

### **SJR 15 Study of Federal Land Management**

An EQC working group that meets twice a month as part of the Senate Joint Resolution 15 study of federal land management issues is proposing a permanent subcommittee of the EQC that would address ongoing federal land management concerns.

Possible options can be seen by [clicking here](#).

The SJR 15 work group will likely present proposed legislation as well as a draft report to the EQC in July.

For more information on the SJR 15 study, contact Joe Kolman, legislative environmental analyst, at 444-3747 or [jkolman@mt.gov](mailto:jkolman@mt.gov).

## Other Topics

Also in July, the council is scheduled to:

- hear from the Environmental Protection Agency and others regarding a proposed rule to implement the Clean Water Act;
- receive updates from the State Parks Board on its work and from the state forester on fire season; and
- discuss oil field waste disposal.

## Next Meeting

The council meets next at 8:30 a.m. on July 9 in Room 317 of the Capitol in Helena. The meeting continues at 8 a.m. on July 10. For more information on the council's activities and upcoming meeting, visit the council's Web site or contact Joe Kolman, council staff.

Council Web Site: [www.leg.mt.gov/eqc](http://www.leg.mt.gov/eqc)

Council Staff: [jkolman@mt.gov](mailto:jkolman@mt.gov) or 406-444-3747

## Council Sets Tentative 2015 Calendar, Makes Other Session Preparations

The Legislative Council began preparations for the 2015 legislative session and concluded its study on legislative improvement when members met in June.

The Legislative Communications Office presented ideas for additional outreach to the public during the session. Short, introductory videos of each legislator will be made and linked on the Web page for each legislator. These pages already contain the legislator's photo, a list of sponsored bills, contact information, committee assignments, and schedules. There may be other opportunities for longer legislator videos patterned after what other states are doing. The staff is also developing training videos, such as a new video on the bill draft request process, and can provide examples of new ideas and guides for constituent relations.

## Appropriations Bill Draft Requests Received

The Legislative Council authorized the drafting of the main appropriations bills, which will be introduced as House Bills 2 through 15. The bills will be drafted as follow:

- LC 171, House Bill 2, General Appropriations Act;
- LC 172, HB 3, Supplemental Appropriations Bill;
- LC 173, HB 4, Appropriations by Budget Amendment;
- LC 174, HB 5, Long-Range Building Appropriations;
- LC 175, HB 6, Renewable Resource Grants;
- LC 176, HB 7, Reclamation and Development Grants;

- LC 177, HB 8, Renewable Resource Bonds and Loans;
- LC 178, HB 9, Cultural and Aesthetic Grants;
- LC 179, HB 10, Long-Range Information Technology Appropriations;
- LC 180, HB 11, Treasure State Endowment Program;
- LC 181, HB 13, State Employee Pay Plan;
- LC 182, HB 14, Bonding Program; and
- LC 183, HB 15, School Facility Grant Program.

## 2015 Legislative Calendar

The council adopted a preliminary calendar for 2015 that is posted on the [2015 Session page](#) of the legislative Web site. The session begins Jan. 5, 2015, and the calendar includes a transmittal break from Feb. 27-March 2 and an Easter break from April 3-6.

The council also will recommend to leadership that lawmakers not meet on the first Saturday, Jan. 10, and that the House and Senate alternate in holding Saturday floor sessions from Jan. 17 to Feb. 7 in order to allow the other chamber time for constituent relations.

The 2015 legislative leadership has the final decision on the legislative calendar, which is subject to change before or during the session.

## Orientation Schedules Set

Party caucuses, at which House and Senate members select their leaders, and Legislator Orientation will be held Nov. 12-14. The November training is designed for all legislators. Veteran lawmakers are encouraged to attend to complete initial paperwork, submit their committee requests, and help mentor new members.

A second opportunity for orientation will occur Dec. 3-4. On Dec. 3, the members of the Joint, House, and Senate Rules committees will hold their traditional meetings to adopt rules for the 2015 session. Training also will be held for all presiding officers, vice-presiding officers, and ranking minority members. On Dec. 4, training will be available to all legislators on legislative rules, the 2017 biennium budget, ethics, ethics laws, and custom, decorum, and tradition. The Dec. 4 training will not only provide legislators with additional training, but also give them another chance to meet each other and learn more about the legislative institution.

The first week of session will also provide opportunities for training, including the traditional Law School for Legislators, an introduction to the committee process, rules training for floor sessions, mock floor sessions, and additional training on ethics, decorum, and tradition.

## Session Support for Legislators and Public

Staff reported to the council that it is working on additional support for legislators during session, including providing information on childcare availability in Helena near the Capitol and the potential availability of a flexible spending plan, as is offered to other state employees.

Staff is also working with the Department of Administration and the City of Helena to improve the parking situation around the Capitol to free up space for the public, especially those who travel from far away, and to provide more predictable parking for all of the regular participants in the Legislature, as well as state employees who work in the Capitol area.

## Session Committee Changes

The Legislative Council will recommend to the next leadership that some legislative committees meet more or less frequently than in the past and that some committees meet in different rooms. The council recommended the following changes in classification of committees:

- House Fish, Wildlife, and Parks, from Class 3 to Class 2;
- House Federal Energy and Telecommunications, from Class 2 to Class 3;
- House Transportation, from Class 2 to Class 3; and
- House Local Government, from Class 3 to Class 2.

Class 2 committees meet on Mondays, Wednesdays, and Fridays, while Class 3 committees meet on Tuesdays and Thursdays. Changing the classification of these House committees will require changes to House Rule 30-10.

In addition, the council recommended the following room changes:

- Senate Natural Resources, from Room 422 to Room 303;
- Senate Education, from Room 303 to Room 422;
- House Education, from Room 137 to Room 472; and
- House Natural Resources, from Room 172 to Room 137.

Leadership will make the final decision on the proposed changes, while the rules committees will act on the necessary rule changes.

## Legislative Improvement

Staff presented the final installment of "What Do Other Legislatures Do?: Interim Committees." Council asked staff to bring back options on previous topics involving personal staff for leadership in the interim and potential changes to legislative compensation.

## 2017 Biennium Budget

The council received information on the development of the 2017 biennium budget for the legislative branch. The council approved the use of the Information Technology Reserve Fund for the final phases of replacement and upgrade of the equipment, including cameras, work stations, and sound systems, for Television Montana (TVMT). This action will preclude the need for a decision package to the next Legislature.

A preliminary budget will be submitted Sept. 1, with final approval, including any changes, at either the Sept. 4 or Nov. 13 meeting.

## Electronic Communications Subcommittee

The subcommittee received information on the House Joint Resolution 2 study of electronic records management and a bill draft that will be considered by the Education and Local Government Interim Committee on changes to the public records laws.

This dovetailed with the information the subcommittee had been considering on legislator e-mails and the legal analysis of balancing the public's right to know and a legislator's right of privacy. The subcommittee asked that the full council receive the materials. The subcommittee spoke of the distinction between information on legislation and policy decisions versus campaign and personal business.

The subcommittee did not recommend a standard legislative e-mail address for all legislators. However, the members believe that training for all legislators is needed on legal implications, archiving, and responding to requests for public information. The subcommittee believed that any rule changes or guidance on the use of electronic devices by legislators should be referred to the Rules Subcommittee.

## Rules Subcommittee

The Rules Subcommittee met for the first time and outlined the rules that it will be considering at or before the next council meeting, including the Senate process for confirming gubernatorial nominations, the use of proxies, the use of electronic devices in committee and on the House and Senate floors, changes in committee classification, bill co-sponsors, debate on motions to remove a bill from a committee and the timing of cloture in the House, and access to the chamber floor. (See related story on P. 1 on the use of electronic devices.)

## Future Topics

At its final meetings, the council will be considering its long-range planning role and receiving information on the Capitol Master Plan and the 2011 study of legislative space. The council also will receive information on the preliminary 2017

biennium budget submitted to the Office of Budget and Program Planning.

The council tentatively scheduled a brief and final meeting of the year on Nov. 13, during Legislator Orientation.

### Next Meeting

The council meets next on Sept. 4 at the Capitol in Helena. For more information on the council's activities and upcoming meeting, visit the council's Web site or contact Susan Byorth Fox, council staff.

Council Web Site: [www.leg.mt.gov/legcouncil](http://www.leg.mt.gov/legcouncil)

Council Staff: [sfox@mt.gov](mailto:sfox@mt.gov) or 406-444-3066

## Legislative Finance Committee Hears 2017 Biennium Budget Outlook

During the June meeting of the Legislative Finance Committee, the Legislative Fiscal Division released the [2017 Biennium Outlook for the General Fund Budget](#).

The report is designed to provide a preliminary review of the financial condition of the state for the 2017 biennium, taking into consideration future revenues, current service level impacts, and other risks and pressures. The [full report](#) is available online, but a [Back Page summary](#) in this newsletter is provided for reference.

The committee will hear an update to this report in December.

### 2015 Biennium Budget Update

The committee received updates from the staff on the 2015 biennium budget. The updated general fund ending fund balance was reported at \$383.4 million for fiscal year 2014. General fund revenue collections for FY 2014 were reported as 1.4 percent below FY 2013 revenues through the same period.

Staff reviewed spending for all agencies in the three main fund types (general fund, state special and federal) and investigated any anomalies. Most agencies expenditures were as expected, with the following pressure points:

- The Office of Public Instruction anticipates a budget shortfall of \$2.5 million due to an underestimation of the guaranteed tax base aid payments
- The Department of Public Health and Human Services reported to staff that it projects an overexpenditure in general fund by \$11.2 million, or \$2 million higher than reported in March. The committee requested a more detailed report on overages in the Human Resources Division from the agency and LFD staff for the September meeting.

- In the Department of Corrections, staff reported that county jail holds are overexpended by \$2.3 million and the Youth Services Program is overexpended by 70 percent.
- A recent legislative audit determined that the Department of Livestock spent cash associated with deferred revenue from brand re-record fees to fund current year operations. The department indicated to the committee that a general supplemental will be requested of the 2015 Legislature to replenish the fund. The committee requested a full accounting of the situation from LFD staff for the September meeting.

### Other LFC Business

The committee heard an update on the progress of the development of the Medicaid Management Information System from state Chief Information Officer Ron Baldwin and LFD staff. Xerox, the contractor working on the implementation of the system, submitted a new work plan and is awaiting approval by the department. The committee directed LFD staff to send an update via e-mail to the full committee on whether the work plan options are approved by June 19 and if Xerox completes the first deliverable.

The committee also:

- heard from staff on the development of a new in-house model for tracking Medicaid funding;
- received a staff update on the economic impacts to local governments and schools; and
- continued study of state employee pay increases provided in FY 2013, as directed by House Joint Resolution 13.

### Next Meeting

The committee meets next on Sept. 25-26 in Room 102 of the Capitol in Helena. For more information on the committee's activities and upcoming meeting, visit the committee's Web site or contact Legislative Fiscal Analyst Amy Carlson.

Committee Web Site: [www.leg.mt.gov/lfc](http://www.leg.mt.gov/lfc)

Committee Staff: [acarlson@mt.gov](mailto:acarlson@mt.gov) or 406-444-2986

## RTIC to Begin Reappraisal Education, Plan for Revenue Estimate

The Revenue and Transportation Interim Committee will hear about the upcoming property tax reappraisal process and wrap up efforts on its two studies when it meets July 16-17 in Helena.

The Department of Revenue is currently in the process of reappraising agricultural, commercial, residential, and forest land properties on the six-year reappraisal cycle. The 2015



Legislature may wish to amend property tax statutes after the new property values are available later this year. On the afternoon of July 16, the department will provide committee members with background on reappraisal in preparation for the Legislature's role in this process. The presentation will include an explanation of how reappraisal values are determined, preliminary reappraisal data, and a timeline for remaining reappraisal activities.

The committee will hear a second installment on reappraisal at its September meeting. Updated preliminary data is expected at the committee's November meeting.

The Department of Revenue also will present a property tax simplification "wish list" at the request of the committee. The ideas discussed could be included in any mitigation legislation considered by the Legislature.

### **Other Agency Agenda Items**

State law requires the Department of Revenue to provide the committee with an update of countries that may be considered tax havens. The committee will receive this report at the July meeting and will be asked to make a recommendation about whether to retain or eliminate the report. The department also will provide an agency update and follow up on information provided at the May meeting about entitlement share payment increases resulting from a reduction in the business equipment tax.

In addition, both the Department of Revenue and the Department of Transportation will present their agency legislative proposals, asking that the committee submit bill draft requests on behalf of the agencies to allow for early drafting of the bills.

### **Assigned Studies**

The committee will spend Thursday morning wrapping up work on its assigned studies of the movement of oversize loads and the taxpayer appeal process.

For the Senate Joint Resolution 26 oversize load study, the committee will review maps provided by the Department of Transportation aimed at helping the committee visualize routes currently being used to move oversize loads. Staff also will provide a decision tool to assist the committee in deciding whether to make any findings or recommendations.

The committee will receive additional information about mediation, which was requested as part of the SJR 23 study of the taxpayer appeal process. Staff will provide information on state-required mandatory mediation, and the Department of Revenue will discuss factors it considers when deciding whether to enter into mediation with a taxpayer. Staff also will present a bill draft to allow industrial property taxpayers to appeal directly to the State Tax Appeal Board and one to

allow certified public accountants to practice before the State Tax Appeal Board.

In addition, the committee will review outlines of final reports for both studies.

### **Revenue Estimating and Monitoring**

The Legislative Fiscal Division will provide a revenue update as it has throughout the interim. The July report will be a biennium budget update that covers general revenues and expenditures.

The committee also will be encouraged to decide how to approach the revenue-estimating process during its last two meetings. In recent years, the committee has requested presentations on the economic outlook for the state in September. Votes to actually request the revenue-estimating resolution occur in November after receipt of the governor's budget, which includes the executive's revenue estimate.

Legislative Fiscal Division staff also will present a standard error report that analyzes the accuracy of past revenue estimates. The revenue source highlighted in this presentation will be the corporate income tax.

### **Next Meeting**

The committee meets next on July 16-17 in Room 102 of the Capitol in Helena. For more information on the committee's activities and upcoming meeting, visit the committee's Web site or contact Megan Moore, committee staff.

Committee Web Site: [www.leg.mt.gov/rtic](http://www.leg.mt.gov/rtic)

Committee Staff: [memoore@mt.gov](mailto:memoore@mt.gov) or 406-444-4496

## **State Administration Committee to Reconsider Political Practices Legislation**

At its June 5 meeting, the State Administration and Veterans' Affairs Interim Committee authorized bill requests for the Office of the Secretary of State, Department of Military Affairs, and Department of Administration, but requested more time before authorizing bill requests forwarded by the Office of Commissioner of Political Practices.

The commissioner's legislative ideas will again be considered for bill draft request purposes at the committee's Aug. 15 meeting. The proposals would:

- require electronic filing for state district candidates;
- remove the requirement for political committees to file locally;
- define election material released within 60 days of an election as "express advocacy" subject to disclosure;

- delete “other than a candidate or political committee” from the definition of “contribution” in 13-1-101(7)(a)(iii), MCA;
- prohibit electioneering at the election office locations where absentee ballots may be cast in person during the absentee voting period;
- add ballot issue committees and incidental committees to the statute requiring notice of pre-election expenditures;
- give the commissioner’s office jurisdiction over so-called “robo-call” complaints, involving automated telephone calls;
- allow the commissioner to designate in-house counsel as a deputy commissioner;
- remove or revise laws or portions of laws declared unconstitutional with respect to prohibiting political party endorsement of judicial candidates and election materials that misrepresent voting records;
- allow a court to revoke the charter of nonprofit corporations or other organizations that violate laws regulating campaign practices;
- adjust pre-election reporting deadlines; and
- establish a litigation fund for use when or if the commissioner files a district court action for a civil violation of campaign practice laws.

The committee also will reconsider at the August meeting its own bill to revise the selection of the commissioner of political practices. Committee members in June did not agree to move forward with adding a fifth member to the nomination committee. Thus, the bill will be revised. The nomination committee membership, which includes the leadership in the House of Representatives and Senate, will remain the same, but the governor will be required to appoint the commissioner from the list of two to five nominees forwarded by the nomination committee.

The committee also discussed a recent court case that declared language in section 13-35-225(3)(a)(ii), MCA, unconstitutionally vague. The language concerns the misrepresentation of voting records. The committee asked that staff work with stakeholders to develop a committee bill to revise the language. This preliminary bill will also be discussed at the August meeting.

### **Pension Plan Oversight**

Also in June, the committee received a presentation from the Teachers’ Retirement System (TRS) summarizing the findings of its experience study completed in May. Based on the findings of an actuarial study of actual long-term experience

concerning inflation, wage growth, and investment returns, the TRS actuary recommended the following:

- reducing the price inflation assumption from 3.5 percent to 3.25 percent;
- reducing the wage inflation assumption from 4.5 percent to 4.25 percent; and
- keeping the 7.75 percent investment return assumption as is.

The TRS Board adopted the recommendations. Applied to the June 30, 2014, actuarial valuation, the changes in assumptions increased the amortization period from 20 years to 21 years assuming the Guaranteed Annual Benefit Adjustment (GABA) reduction included in HB 377 or from 20 years to 32 years assuming no reduction in the GABA.

The fate of the GABA reduction in HB 377 is unknown at this time. The reduction was stopped in Helena District Court pending the outcome of a lawsuit challenging the GABA reduction as an unconstitutional breach of contract rights.

The committee also discussed its committee bill to revise the termination triggers for certain contributions in the Public Employees’ Retirement System (PERS). The bill would make 1 percent of the employee and 1 percent of the employer contributions adjustable by the PERS Board based on the defined benefit plan’s funded ratio and amortization period. The committee bill also will revise the allocation of employer contributions currently allocated as the Plan Choice Rate in the PERS Defined Contribution Retirement Plan. The committee requested two amendments related to the PERS Defined Contribution Plan and the University System’s Retirement Program and will review the revised bill at the August meeting.

### **Elections**

After reviewing the election law revision bill proposed by the Senate Joint Resolution 14 Subcommittee, the committee agreed to request the subcommittee bill as a full committee bill, with some changes. The changes include:

- eliminating throughout the Montana Code Annotated any requirement for a person interested in running for a special purpose district or school district position to collect a certain number of elector signatures on a nomination petition in order to become a candidate;
- requiring that a resolution calling for a school election include whether the election is to be conducted by mail ballot;
- requiring that if an election is to be conducted by mail and was called after the written plan for mail ballot elec-

tions was submitted to the Secretary of State, an amended plan be submitted; and

- requiring that county election administrators run elections for community college districts.

The committee also discussed a potential committee bill concerning the procedure to be followed to provide a remedy when an administrative irregularity, such as ballots being mailed late, occurs during an election. Staff will be collecting ideas from committee members and discussing options for a bill draft at the August meeting.

### Next Meeting

The committee meets next on Aug. 15 in Room 137 of the Capitol in Helena. For more information on the committee's activities and upcoming meeting, visit the committee's Web site or contact the committee's staff.

Committee Web Site: [www.leg.mt.gov/sava](http://www.leg.mt.gov/sava)  
Committee Staff: [sscurr@mt.gov](mailto:sscurr@mt.gov) or 444-3596

## Technical Working Group Peers into Indian Water Rights Settlement

Spreadsheets of stream flow rates, GIS maps of a vast irrigation project, and evapotranspiration values for lands on the Flathead Indian Reservation are the center of attention for a six-person group assigned to examine the proposed Confederated Salish and Kootenai Tribes (CSKT) water rights settlement.

In May, the Water Policy Interim Committee voted to form the CSKT Compact Technical Working Group to answer technical questions raised by legislators and the general public. The proposed CSKT settlement – or compact – was introduced but not passed in the 2013 Legislature.

The committee chose John Metesh – state geologist and director of the Montana Bureau of Mines and Geology – to select the working group members and direct their work. The group's analysis began May 28. The committee asked the working group to complete its analysis by August. The group's meetings are publicly noticed.

So far, discussion has focused on a data model developed by the tribes. The model calculated water availability, an amount of water for the Flathead Indian Irrigation Project, and enforceable flow rates for water to be left in stream for fisheries.

In addition to Metesh, working group members are:

- Andrew Brummond, water rights and streamflow specialist, Department of Fish, Wildlife and Parks;

- Larry Dolan, surface water hydrologist, Department of Natural Resources and Conservation;
- Russell Levens, hydrosciences section supervisor, DNRC;
- Mike McLane, water resources specialist, FWP; and
- Kirk Waren, senior research hydrogeologist, Montana Bureau of Mines and Geology

The group was formed partially in response to a request by Rep. Nancy Ballance, R-Hamilton, and Rep. Keith Regier, R-Kalispell, for legal, environmental, and economic analysis of the proposed water rights settlement. The group will answer relevant technical questions posed in the Ballance-Regier request, as well as any other salient technical issues.

### On Tap in July

The WPIC will hear final recommendations in July from four advisory councils formed as part of the state water plan update. Advisory councils in the Clark Fork-Kootenai rivers, Lower Missouri River, Upper Missouri River, and Yellowstone River basins have been working since last fall on recommendations for the state water plan. The draft state water plan will be presented to the committee in September.

The committee also will consider draft legislation from DNRC at its July meeting.

### Next Meeting

The committee meets next at 8 a.m. on July 8 in Room 137 of the Capitol in Helena. For more information on the committee's activities and upcoming meeting, visit the committee's Web site or contact Jason Mohr, committee staff.

Committee Web Site: [www.leg.mt.gov/water](http://www.leg.mt.gov/water)  
Committee Staff: [jasonmohr@mt.gov](mailto:jasonmohr@mt.gov) or 406-444-1640

## Save the Dates!

### Nov. 12-14, 2014

Party Caucus and Legislator Orientation - All Legislators

### Dec. 3, 2014

Joint, House, and Senate Rules Committees & Presiding Officer Training for committee chairs, vice-chairs, and ranking minority members

### Dec. 4, 2014

Legislator Training -- All Legislators (discretionary)

### Jan. 5, 2015

64th Legislative Session Convenes

### Feb. 27-March 2, 2015

Transmittal Break (subject to change)

### April 3-6, 2015

Easter Break (subject to change)

## The Back Page

### 2017 Biennium Outlook for the General Fund Budget

by the Legislative Fiscal Division

The 2017 Biennium Outlook for the General Fund Budget report provides the current outlook for ongoing general fund revenues and expenditures to project the general fund structural balance the Legislature will have available for the 2017 biennium. The report includes a summary of findings, with further elaboration on:

- anticipated ongoing general fund revenues;
- ongoing general fund present law expenditure requirements, including budget risks; and
- budget pressures.

This Back Page article reprints the Introduction to the report. The [full report](#) is available online.

#### Risks and Pressures

The report contains a discussion of various risks and pressures that are not a part of present law but could impact spending or revenues. “Present law” is defined in statute as that level of funding needed under present law to maintain operations and services at the level authorized by the previous Legislature.

“Risks” are defined as those factors that could render the projected present law different from actual present law in the next legislative session. For example, estimates of Medicaid costs and corrections populations are included in the present law estimate. Changes in any of these factors from the parameters used in the estimate will result in a different actual present law than the projected.

“Pressures” are defined as those factors that are not within the statutory definition of present law and so are not included in the estimate but that the Legislature is likely to be under pressure to fund.

#### Analysis of Findings

The report concentrates on the general fund, as it is the primary source used by the Legislature to make funding decisions for general government services, such as education, health and human services, and public safety. General fund structural balance and ending fund balance (to include any rainy day fund) are also generally used to determine the fiscal soundness of the state. For background information on these two measures, please see Appendix A, Managing Budget Volatility, in the full report.

#### Structural Balance

Structural balance compares the anticipated ongoing revenues and ongoing expenditures to determine whether ongoing revenues are sufficient to continue to fund the legislatively authorized ongoing functions of state government. The estimate of the 2017 biennium general fund structural balance is positive, meaning that the current outlook for general fund revenue exceeds the anticipated present law expenditure requirements for the budget.

The following chart is divided into two parts and is a visual representation of projected general fund structural balance in the 2017 biennium. The left side of the chart shows:

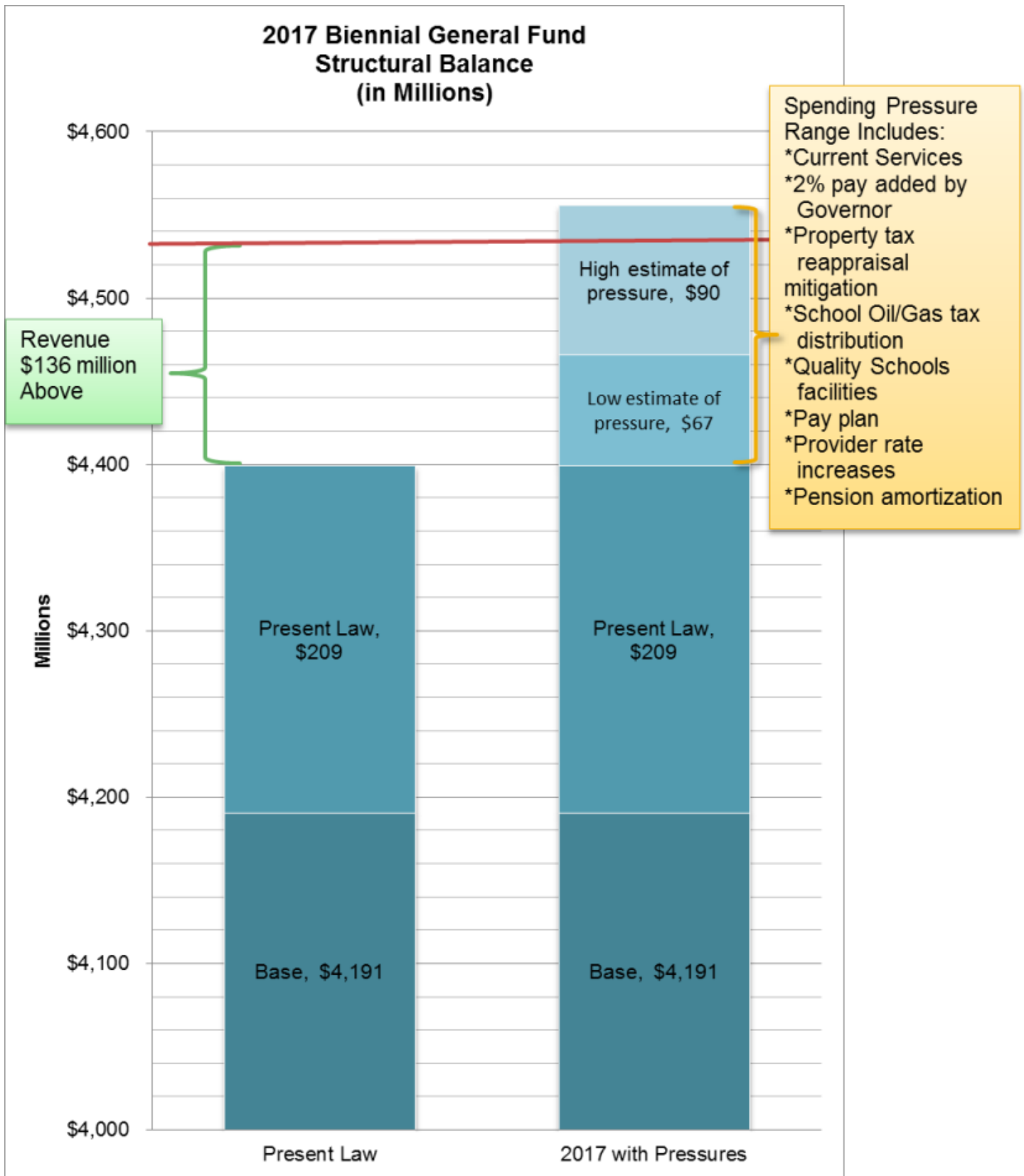
- anticipated ongoing revenues, of the \$4.5 million represented by the red line across the top of the chart;
- the 2015 biennium ongoing appropriation base used as the starting point for the 2017 biennium budget; and
- projected general fund present law adjustments to the base.

The chart assumes:

- general fund revenue growth of 5.3 percent in the 2015 biennium and 9.1 percent in the 2017 biennium; and
- present law expenditure growth of 5 percent from the 2015 biennium base to the 2017 biennium.

As shown, anticipated ongoing spending is below projections of ongoing revenue. The projected revenue and spending trends would result in a structural balance of \$136 million for the 2015 biennium, meaning that ongoing revenues are greater than assumed spending by \$136 million, or 3 percent of anticipated biennial revenue.

The right side of the chart shows the projected present law, but also adds various budget pressures the 2017 Legislature is likely to face, including the state employee pay plan, provider rate increases, and several other factors. It includes a range of possible funding scenarios.



**Note:** For ease of understanding this chart, the revenue pressure related to property tax reappraisal mitigation is shown as an expenditure increase.

## 2015 Biennium Ending Fund Balance

In addition to a positive structural balance in the 2017 biennium, a higher-than-anticipated 2015 biennium ending fund balance is expected. The final anticipated ending fund balance at the end of the 2013 legislative session was \$298 million. If the expenditures and revenues anticipated in this report hold true, the 2015 biennium ending fund balance will be \$16 million higher than anticipated, or \$314 million.<sup>1</sup> For further information on the balance sheet, please review the 2015 Biennium Budget Update.

## Revenues

General fund revenue in FY 2013 was \$82 million higher than anticipated in Senate Joint Resolution 2, adjusted for revenue legislation. The current outlook for revenue in the 2015 biennium is \$34.5 million, or 0.8 percent less than anticipated in SJR 2, adjusted for revenue legislation. Revenues in the 2017 biennium are anticipated to grow by 9.1 percent, or \$377 million. More information regarding revenue estimates can be found on page 7 of the full report.

## Present Law

Anticipated present law expenditure requirements growth is slower than has been seen in recent biennia. The total dollar growth for present law in the 2015 Biennium Outlook report was \$254 million, while the comparable value in the 2017 Biennium Outlook is \$209 million. The two primary reasons for this lower growth are:

- \$58 million of the reduced general fund requirement is due to the 23 percent increase in the federal match rate for the Children's Health Insurance Program (CHIP) and additional state special revenue anticipated in the primary CHIP funding stream. Beginning in October 2015, the federal government will pay an additional 23 percent of the cost of the state CHIP program, which offsets state funds. It is assumed that all 23 percent and the additional revenue can be used to offset general fund expenditures. Please see Appendix D on page 33 of the full report for more details.
- in the 2017 biennium, there will be less need to backfill revenue sources. The largest backfill in the 2015 biennium was for K-12 schools to replace guarantee account funds. On a biennial expenditure basis this replacement is forecast to be \$57 million in the 2015 biennium and \$17 million in the 2017 biennium.

Partially offsetting these reductions are higher growth levels in other areas of the budget as described below.

Of the \$209 million of present law adjustments the largest increases include:

- \$88.1 million annualizing the FY 2015 costs (the difference between FY 2015 and FY 2014) into the next biennium;
- \$71 million of Medicaid and CHIP caseload and utilization increases and \$13 million in additional Medicaid federal matching fund costs (note that is significantly offset with the \$58 million in higher revenue stream and lower CHIP federal match mentioned above);
- \$87 million in school BASE aid and other present law school funding adjustments; and
- \$6.5 million to replace the additional 2 percent vacancy savings adopted by the 2013 Legislature.

The present law definition as applied above does not include all costs that could be considered needed to maintain current services and other spending pressures to be considered by the next Legislature.

## Risks and Pressures

The report contains a discussion of various risks and pressures that are not a part of present law but could impact spending. The following section summarizes those risks and pressures.

### Risks

Risks highlighted in the report include potential changes in human services caseload and use, corrections populations, and other factors. Each of the risks is incorporated within the relevant discussion in the "Revenue" and "Expenditure" sections of the full report. Initiatives that could gain signatures and be passed by the electorate are included in the "Initiatives Risk" section on page 25 of the full report.

### Pressures

There are a number of areas where anticipated expenditures are not included in present law but where the Legislature is likely to face pressure to increase spending. Each area is discussed in more detail in the "Other Budget Pressures" section on page 20 of the full report and is briefly described here. This list is not comprehensive of all items that will come before the Legislature, and it focuses on items that impact structural balance, are ongoing in nature, and fund current operations of state government. Items that tend to be one-time investments, such as any replacement for House Bill 218 (local government infrastructure) or state infrastructure investments, are not included.

The table at the end of the list recaps each item and describes how much is included in the low estimate of pressure and a higher estimate of pressure that could be considered.

- **Certain One-Time-Only Spending.** The Legislature made a number of appropriations one-time-only (OTO)

that have either been funded for several biennia or that were for functions that could be considered ongoing. In this biennium, \$15 million of anticipated expenditures fall into this category, while \$34 million appeared in this category last biennium.

- **2 Percent Additional Pay Plan Negotiated by the Governor.** While HB 13 contained funding for a 3 percent per year increase in state employee pay, Gov. Steve Bullock negotiated a pay increase of 3 percent with the unions at the beginning of FY 2014 and 5 percent later in FY 2015. The difference between the legislatively budgeted pay plan and the implemented executive pay plan is not included in the present law analysis. The additional 2 percent pay increase is anticipated to cost \$10.8 million in the 2017 biennium.
- **Property Tax Reappraisal Mitigation.** Statewide mitigation of property values is often used to keep the total property tax class revenue neutral while property values increase. Mitigation that addresses both the strong Class 3 growth and the more moderate Class 4 growth, using preliminary numbers, could cause a \$6.2 million reduction in income to the general fund. Alternatively, due to the modest increases in Class 4 property, if only Class 3 was mitigated, a reduction in \$4.5 million to the general fund could occur. These reductions in income as compared to present law are shown as expenditures on the structural balance chart
- **Oil and Gas Revenues to School Districts, also known as Concentric Circles (Senate Bill 175).** Replacement of funding to school districts is estimated to cost \$5.8 million in FY 2017. See page 22 of the full report for more details.
- **Quality Schools School Facilities.** Quality schools revenues are not sufficient to fund current programs in

future biennia. If these programs were fully funded, the shortfall is estimated to be \$14 million in the 2017 biennium. See page 23 of the full report for more information.

- **State Employee Pay Plan.** The Legislature could be approached with a pay plan for the 2017 biennium. A 1 percent pay plan, including funding for the Montana University System (MUS) at current funding ratios, is approximately \$12.2 million general fund without an adjustment to the state contribution to health insurance. A 1 percent increase in health insurance is anticipated to cost \$1.6 million in general fund.
- In addition to the cost of a pay plan, if the Legislature desires to limit tuition increases, additional funding may be requested to fund the full resident student share of the MUS pay plan. The additional funding at 1 percent pay plan and insurance would be an additional \$5 million general fund in the biennium and at a 3 percent pay plan would be \$15 million general fund in the biennium
- **Provider Rate Increases.** The vast majority of medical and community services administered by the departments of Public Health and Human Services and Corrections are provided through contracts with private businesses or nonprofits generally called providers. A 1 percent per year increase in provider rates is estimated to cost the general fund \$12.5 million. Similarly, a 3 percent per year increase is estimated to cost \$37.5 million.
  - **Pension Liabilities.** Current legal challenges and other circumstances add expenditure pressure to continue to meet the actuarial recommended 30-year amortization period. The anticipated cost to meet this actuarial recommendation is \$11 million for the Public Employees' Retirement System. See page 24 of the full report for more information.

<b>Summary of Ongoing Biennial General Fund Pressures</b>				
(In Millions)				
Pressure	Assumptions	Low	High	Total
		Estimate	Estimate	
Current Service Level	Full amount in low estimate	\$15.1	-	\$ 15.1
Governor's additional 2% pay	Full amount in low estimate	10.8	-	10.8
Reappraisal Mitigation	Low is class 3 mitigation only	4.5	1.7	6.2
School District Oil and Gas Distribution	Low assumptions is half	2.9	2.9	5.8
Quality Schools	Low assumptions is half	7.0	7.0	14.0
Pay Plan	1% per year in Low, 3% in High	13.8	27.6	41.4
Provider Rate Increase	1% per year in Low, 3% in High	12.5	25.0	37.5
MUS tuition mitigation	None in Low, all in High	-	15.0	15.0
Pensions	None in Low, all in High	-	11.0	11.0
<b>Potential pressures described in 2017 Outlook</b>		<b>\$ 66.6</b>	<b>\$ 90.2</b>	<b>\$ 156.8</b>