



# Montana Legislative Services Division

## Office of Research and Policy Analysis

David D. Bohyer, Director

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TO: Members of the State Administration and Veterans' Affairs Interim Committee  
FROM: Dave Bohyer, LSD Research Director  
RE: Report and recommendations of the Subcommittee on Montana Highway Patrol Recruitment and Retention

### BACKGROUND

The State Administration and Veterans' Affairs Interim Committee (SAVA) created the Subcommittee on Montana Highway Patrol Recruitment and Retention and commissioned the Subcommittee to examine recruiting and retention challenges experienced by the Montana Highway Patrol (MHP). Rep. Stan Fisher was named chairman of the Subcommittee, and Reps. Larry Jent and Ralph Lenhart and Sen. Kelly Gebhardt completed the membership.

As Subcommittee Chairman Fisher had, in February, requested Col. Yaeger to prepare and present the MHP's insights and recommendations regarding recruitment and retention, the groundwork for the Subcommittee's investigation was laid.

This memorandum, prepared by staff to the Subcommittee, presents a summary of the Subcommittee's investigation and its conclusions and recommendations.

### INTRODUCTION

The Subcommittee met on Tuesday, April 13, 2004, at the State Capitol in Helena. The agenda focused on further examination of the recruiting and retention issues facing the MHP and on options and recommendations for addressing the issues.

Col. Randy Yaeger, Chief, MHP, presented a range of information to the Subcommittee. Data compiled and analyzed by the MHP showed that there has been significant turnover in the past 10 years among the uniformed ranks and that the rate of turnover has accelerated considerably in recent years.

A different but related data series showed that the entry wage for an MHP officer was significantly less than the average entry wage for sheriff's deputies and municipal police officers in eight of Montana's most populous counties/cities. The eight counties

used for wage comparison -- Gallatin, Missoula, Flathead, Lewis and Clark, Butte-Silverbow, Cascade, Yellowstone, and Dawson -- were examined because it is those counties/cities in which MHP turnover is occurring most regularly.

In addition to the information provided by Col. Yaeger and other MHP staff, Mr. Andrew Geiger of the Legislative Audit Division (LAD) provided preliminary information from a performance audit that was then being conducted by the LAD staff. In general, Mr. Geiger reported that the LAD staff's findings confirmed the pay levels and staff turnover numbers compiled and reported by the MHP.

#### WAGE AND TURNOVER DATA

In specific amounts<sup>1</sup>, the current beginning wage for an MHP officer is \$12.90/hour. Comparatively, the average hourly wage for a new officer in the eight counties/cities is \$16.52, a difference of \$3.62/hour or 28% higher than the beginning wage for a new MHP officer.<sup>2</sup>

The MHP assertion that officers were leaving the MHP for higher-paying positions in the eight counties/cities was confirmed by LAD staff. While both the MHP and the LAD concluded that 55 MHP officers had transferred to local law enforcement agencies during the past 10 years, the LAD also noted that 35 of those officers, 64%, had made the switch in the past 5 years alone.<sup>3</sup>

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<sup>1</sup> The wage amounts presented by Col. Yaeger were from figures compiled by the MHP. Wage/salary figures compiled by the staff of the Legislative Audit Division (LAD) were identical to Col. Yaeger's, except that the LAD figures for Butte-Silver Bow used a post-probationary wage of \$17.09/hour vs. Col. Yaeger's pre-probationary wage of \$12.48/hour.

<sup>2</sup> The MHP-compiled beginning wages for a new officer among the counties/cities ranged from a low of \$12.48 in Butte-Silver Bow to a high of \$18.29 in Gallatin County, respective premiums of -3% to +41%. The LAD-compiled beginning wages for a new officer among the counties/cities ranged from a low of \$14.80 in Cascade County to a high of \$18.29 in Gallatin County, respective premiums of +14% to +41%.

<sup>3</sup> Memorandum to the Subcommittee from Andrew Geiger, LAD, 4/13/04.

## MHP FORCE AUTHORIZATION AND MAINTENANCE

The MHP data also showed that the current MHP force is 206 uniformed officers. That compares to the 220 assumed for purposes of legislative appropriations. The difference of approximately 14 officers was attributed by the MHP to "vacancy savings" requirements, imposed as part of the legislative appropriations process. If made available to the MHP, the ~\$528,000 in annual vacancy savings could restore the force to the 220- member force authorized.<sup>4</sup>

## OPTIMAL FORCE STRENGTH

The MHP edified the Subcommittee by citing a study of the MHP conducted 25 years ago by the International Association of Chiefs of Police. At that time, the IACP recommended that Montana maintain a minimum force of 399 people and set the optimal force strength at 495. At its current strength of 270 positions, both uniformed and civilian, the MHP is at the same strength that it was in 1979 and far below what was seen as the necessary minimum force strength 25 years ago.

## LESS VISIBLE COSTS OF TURNOVER

Finally, the LAD staff estimated that hiring, including training, an MHP officer amounts to ~\$25,000.<sup>5</sup> Thus, the average annual turnover of seven MHP officers costs the MHP ~\$175,000 each year, not accounting for the loss of effectiveness and efficiency exhibited by seasoned officers and lost to the MHP.

Other costs of turnover, albeit uncalculated costs, include the amount of overtime pay earned by the officers compelled to "pick up the slack" that results from turnover and constant understaffing, as well as the physical and mental effects -- uniformly negative -- of the additional stress from working excessive hours, days, and weeks.

## OPTIONS IDENTIFIED BY THE MHP

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<sup>4</sup> Col. Yaeger mentioned that national guidelines from 1979 suggested Montana, in 1979, should have presented an MHP minimum force of 296 uniformed officers, due to the miles of highway patrolled, the state's population, and other factors,

<sup>5</sup> *Op cit.*, Geiger.

The options identified by the MHP focused on the two most pressing challenges: inadequate staffing levels and inadequate pay of MHP officers.

#### Exclude MHP from Vacancy Savings

In the first instance, the MHP identified legislatively-imposed "vacancy savings" as a bane to establishing and maintaining a minimal force. Consequently, Col. Yaeger proposed that the MHP be excluded from all vacancy savings requirements that might otherwise be imposed during future appropriations processes. That exemption alone could allow the MHP to reconstitute a force of 220 uniformed officers. Whether or not the MHP force would expand to levels suggested by national indicators is a separate matter that the Legislature and MHP may wish to address in the future.

#### Remedy Inadequate Pay via Indexing

To address the issue of inadequate pay, the Patrol identified a multi-faceted approach, to be implemented over a period of years.

The first step is to establish a statutory requirement that MHP officer pay track the average starting pay of peace officers employed in the eight counties/cities examined, sort of a Montana Law Enforcement Salary Index (hereafter "Index"). By paying entry-level officers at the average wage determined under the Index, the MHP would directly address both issues of recruitment and retention.

The Index would be calculated biennially, most likely in even-numbered years. When applied, the Index would be used as both an appropriation tool and as a budgeting tool for the succeeding year.

When proposing the Index, Col. Yaeger noted that the MHP currently operates within the "broadband" pay plan<sup>6</sup> which provides sufficient authority and flexibility to implement the Index. Further, under the proposal, the pay of MHP officers would be tied solely to the Index, severing the traditional relationship to the pay levels of other state employees. As proposed, the Index would be the only pay mechanism available

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<sup>6</sup> The broadband pay plan was authorized by the 57th Legislature in 2001; see 2-18-303(7), MCA.

or applicable to MHP officers, creating a risk/reward scenario within which the MHP is willing to operate.

Full implementation of the Index could be accomplished immediately -- if funding is made available. However, given the state's current and anticipated fiscal challenges, the Index could be implemented over one or two biennia.

Finally, if the Index is established, the MHP is ardent that the underlying integrity and purpose of the Index be maintained by future Legislatures.

#### Whither the Money?

As with most public policy choices, the matter of money comes into play if inadequate MHP officer pay is to be resolved. As requested by Chairman Fisher, Col. Yaeger presented a list of funding options. In no order of priority, Col. Yaeger identified the following options:

- increase the "gas tax";
- eliminate the "dyed diesel" program;
- increase vehicle registration fees;
- use or earmark a larger portion of the "gas tax";
- reallocate the state general fund;
- impose a per-vehicle fee on each policy, newly written or renewed, for motor vehicle liability insurance; and
- increase the tax on beer and wine sold in Montana.

Subsequent to presenting the options, Col. Yaeger discussed the advantages and disadvantages of each option, including the attainability and sustainability of each option.

#### Policies Could Finance the Policy

It is the MHP's position that requiring vehicle owners to carry liability insurance as a condition for registering a vehicle and imposing a flat fee of \$5 on each automobile liability insurance policy written or renewed in Montana are logical, defensible, and reasonable as a funding solution for implementing and sustaining the Index.

Col. Yaeger averred that although the insurance industry might initially resist the option, insurers would benefit directly from the option in at least three ways. First, insurers would benefit because a greater number of automobile liability insurance policies will be sold, generating additional premiums. Second, because MHP officers investigate accidents and determine fault, the insurers don't have to. He noted that insurers rely completely on MHP investigations, which are used to determine both criminal and civil liability. Third, as MHP officers each do their job and do the job well, drivers are likely to adhere more closely to traffic laws, thereby reducing the number of accidents and the resultant number and amount of insurance claims.

Assuming the imposition of a \$5 fee for each new policy and renewal, the MHP estimates annual revenue of approximately \$6.47 million. This amount is sufficient -- probably more than sufficient -- to fund the estimated \$2.55 million necessary to implement the Index and increase MHP officer pay accordingly.

All of the revenue collected from the \$5 fee, would be deposited in a separate fund and be used, in part, to ensure that MHP pay maintains competitiveness with local law enforcement pay into the future.

### The Excess

Gradual increases in law enforcement compensation must be anticipated and accounted for. Consequently, the MHP proposes to preserve in the separate fund any revenue (collected from the fees) that exceeds the immediate need to implement the Index.

Secondarily, the excess, if any, in the fund would also be used to gradually establish and maintain a greater number of MHP officers. Col. Yaeger does not foresee in the near term attaining even the minimum force strength recommended 25 years ago by the IACP, but would anticipate the gradual expansion of force numbers to alleviate overtime pay, mental and physical fatigue, officer burnout, and the other implications of insufficient force strength.

Col. Yaeger concluded that the "package" of options advocated by the MHP effectively addresses the primary concerns for which the Subcommittee was

commissioned to examine.

## THE SUBCOMMITTEE WEIGHS IN

Following the MHP's presentation, Chairman Fisher convened the Subcommittee in Executive Session.

As a first order of business, Chairman Fisher asked the Subcommittee members for their individual thoughts on MHP pay levels, force strength, and funding. For various reasons, general agreement was reached that the pay received by MHP officers is not competitive and should be increased. They agreed that indexing MHP officer pay to the average pay level of law enforcement officers in the eight counties/cities with which the MHP competes for officers is a reasonable approach that they would support. They also agreed that a force strength that was insufficient 25 years ago is even more insufficient in 2004. The minimum force strength of 220 uniformed officers identified by Col. Yaeger received the members' support. Finally, they agreed that an attainable and sustainable funding source or sources should be identified to alleviate MHP recruitment and retention barriers. Precisely what source or sources are ultimately recommended is beyond the scope of the Subcommittee's commission. However, the members felt comfortable in stating the members' preferences for funding sources.

### Vacancy Savings: Exclude the MHP

In short order, the Subcommittee addressed and disposed of the MHP's "vacancy savings" proposal. The members uniformly and unanimously concluded that the MHP should not be subject to any vacancy savings requirement imposed during the appropriations processes during future legislative sessions, but should be fully funded for a minimum of 220 uniformed officers. They unanimously agreed to state that conclusion as a recommendation to the full SAVA.

Thus, the Subcommittee recommends that:

***the MHP should not be subject to any vacancy savings requirement imposed during the appropriations processes of future legislative sessions.***

Compensation Competition: Index

The members concurred with the MHP's and LAD's findings that turnover was occurring within the Patrol, that the turnover rate was accelerating, that MHP officers were and are taking law enforcement jobs with local law enforcement agencies, that the competition for officers from local law enforcement agencies was occurring primarily in eight counties or from cities within those counties, and that relatively low MHP officer pay was a contributing factor to recruiting difficulties and to officer turnover. The members also agreed that the concept of a Montana Law Enforcement Salary Index was both attainable and sustainable. Consequently, they agreed to state that conclusion as a recommendation to the full SAVA and directed staff to work with MHP and others to develop draft legislation for further consideration.

Thus, the Subcommittee recommends that:

***the MHP, working with the Department of Administration, should develop and maintain a Montana law enforcement salary index that reflects the beginning wages of a law enforcement officer in the following eight counties and the cities within the eight counties: Gallatin, Missoula, Flathead, Lewis and Clark, Butte-Silverbow, Cascade, Yellowstone, and Dawson. The index should be updated biennially and be used to establish the beginning wages for a new MHP officer. By creating and administering the index for new MHP officers, the pay of MHP officers will be severed from the traditional relationship of MHP officer pay to the pay of other state employees.***



### Gas Tax: Stay the Course

For a variety of reasons, the members' rejected increasing the gas tax to address the MHP's recruitment and retention issues. The members opined that Montana's tax on motor fuel is high by national standards and that an increase could have a negative impact on Montana's economy. They also concluded that an increase in the gas tax was likely to be politically unattainable. Consequently, the members rejected the idea of proposing an increase in the gas tax for the purposes under consideration.

### Dyed-Diesel: In the Red?

The MHP had identified eliminating the dyed-diesel program<sup>7</sup> as one source of revenue to support MHP pay and force strength goals, but did not recommend it for various reasons.

For some of the same reasons -- record keeping burden, negative economic implications, likely lack of support, etc. -- the members nixed recommending eliminating the dyed-diesel program.

### Vehicle Registration: Enough Already?

The MHP had identified imposing a \$5 fee on the registration and reregistration of vehicles as a source of revenue to support its goals. Although the MHP gave lukewarm support to the option, it was not the favored option.

The Subcommittee generally agreed with the Patrol that a registration surcharge was an option but perhaps not the best option. However, because there is a direct connection between vehicles and the MHP, a registration surcharge should be maintained as an option.

### Gas Tax: Earmark More for MHP

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<sup>7</sup> The "dyed-diesel" program allows off-road users of diesel fuel -- agriculture, industry, business, recreation, etc. -- to purchase dyed diesel without paying the state diesel fuel tax of 27.75 cents per gallon.

It was uniformly agreed that earmarking more of the gas tax to support the MHP was likely to be unattainable and unsustainable, even if it is considered to be a good idea. Consequently, the Subcommittee rejected the option for further consideration.

#### Vehicle Insurance: A Premium Premium

The favored source of revenue from the MHP's perspective is to impose a \$5 fee on each vehicle liability insurance policy issued or renewed.

Different versions of the premium on the premium were tossed about, but ultimately, the members agreed that a \$5 insurance premium add-on is viable and sustainable.

#### Tax on Beer and Wine: A Little Chaser for That?

The Patrol, at Rep. Fisher's request, had discussed increasing the state tax on beer<sup>8</sup> and wine<sup>9</sup> as a source of revenue to achieve the stated goals. Rep. Fisher took up the cause and advocated increasing the tax on sales of beer and wine, if for no other reason than many traffic violations are associated with or even the result of alcohol consumption. The members, like the MHP, were not particularly enamored of the idea of increasing the tax on beer and wine to accomplish the MHP's goals. Nevertheless, they agreed that the full SAVA should dispose of the option one way or another.

#### THE SHORT LIST

The Subcommittee prioritized five options for funding higher pay for MHP officers through the implementation of the Index and for increasing the force strength. In order of priority, the Subcommittee recommends that the full SAVA consider the following in pursuing the tandem goals:

1. Exclude the MHP from any future vacancy savings requirements adopted by the

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<sup>8</sup> Currently at \$4.30 per barrel, 16-1-406, MCA.

<sup>9</sup> Currently at 27 cents per liter, 16-1-411, MCA.

Legislature. Use the additional funds to attain and maintain a minimum 220-member force of uniformed MHP officers.

2. Impose a \$5 flat fee on each insurance policy written or renewed, with the revenue to be deposited in a separate fund that may be used only for increasing MHP officer pay and force strength.
3. Impose a \$5 flat fee on each vehicle registration and registration, with the revenue to be deposited in a separate fund that may be used only for increasing MHP officer pay and force strength.
4. Increase the state tax on the sale of beer and wine. Deposit the revenue in a separate fund that may be used only for increasing MHP officer pay and force strength.
5. Earmark, possibly through a statutory appropriation, a portion of the state general fund to be deposited in a separate fund that may be used only for increasing MHP officer pay and force strength.

## DISSOLUTION

The Subcommittee concluded its deliberations approximately 2 1/2 hours after undertaking them. Rep. Fisher thanked Col. Yaeger and the MHP staff for their work and assistance, thanked and commended Andrew Geiger of the LAD for his clarification and insights, and thanked the members for their ideas and participation and for their dedication to a worthy endeavor.