



State Administration and Veterans' Affairs Interim Committee

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58th Montana Legislature

SENATE MEMBERS

KEITH BALES
KELLY GEBHARDT
JOSEPH TROPILA
MICHAEL WHEAT

HOUSE MEMBERS

STANLEY FISHER
LARRY JENT
RALPH LENHART
BERNIE OLSON

COMMITTEE STAFF

DAVE BOHYER, Research Analyst
JOHN MACMASTER, Staff Attorney
REBECCA SATTTLER, Secretary

MINUTES

September 26, 2003

Room 102, State Capitol

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Committee tapes are on file in the offices of the Legislative Services Division. **Exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of the document.**

COMMITTEE MEMBERS PRESENT

SEN. KEITH BALES
SEN. KELLY GEBHARDT
SEN. JOSEPH TROPILA
SEN. MICHAEL WHEAT

REP. STANLEY FISHER
REP. LARRY JENT
REP. RALPH LENHART
REP. BERNIE OLSON

STAFF PRESENT

DAVE BOHYER, Research Analyst
JOHN MACMASTER, Staff Attorney
REBECCA SATTTLER, Secretary

VISITORS

Agenda, ATTACHMENT #1
Visitors' list, ATTACHMENT #2

COMMITTEE ACTION

- ! Review, revise, and adopt the meeting schedule
- ! Identify issues and topics of interest to the Committee

CALL TO ORDER AND ROLL CALL

The meeting was called to order at 9:05 a.m. by Sen. Joe Tropila, senior senator and acting Chairman, and the secretary went through the roll call (ATTACHMENT #3).

I. REVIEW OF THE SAIC'S STATUTORY DUTIES AND RESPONSIBILITIES

Dave Bohyer, LSD Research Director, went through a PowerPoint presentation explaining the powers and duties of the Committee. The presentation is included as EXHIBIT 1.

II. OVERVIEW OF AGENCIES FOR WHICH SAIC HAS STATUTORY MONITORING DUTIES

Department of Administration (DOA)

Steve Bender, Deputy Director, presented an overview of each Division within the Department in the form of a PowerPoint presentation, included as EXHIBIT 2. SEN. GEBHARDT asked about the duty of the Consensus Council. Mr. Bender explained that their role is that of mediation and collaboration to various parties dealing with contentious issues. REP. FISHER asked if the building inventory count under the Architecture and Engineering Division Services includes the University System structures. Mr. Bender answered that they are included, and that Tom O'Connell oversees that area. SEN. WHEAT wondered if the implementation of the Montana Information Technology Act would be better served if the Information Technology Services Division were a department instead of an attachment to the DOA. Mr. Bender replied that it wouldn't because the Chief Information Officer would be a gubernatorial-appointed position that could change; he believes the continuity would be valuable.

REP. JENT asked if all regulation has been transferred from The Department of Commerce, and if any off-shore foreign banking depositories have been set up yet. Mr. Bender stated that regulation has been transferred, but that there has only been one serious proposal for off-shore banking. REP. JENT offered that the Committee might want to consider a study regarding the topic, and asked if the DOA is incurring any expenses from the off-shore depositories. Mr. Bender explained that it cost \$250,000 to set up, but they are not incurring any more expenses currently. He added that the DOA contemplated endorsing a bill to repeal the statute, but decided to leave it. However, they will not object to a repeal. REP. JENT then discussed the topic of regulation of mortgage brokers and banks. **Annie Goodwin, Department of Administration (DOA)**, explained that mortgage brokers and loan originators are not currently regulated, but the new licensing act provides for that. It does not, however, include mortgage lenders. She added that potential regulation would be an option for legislation, which would ensure dual banking. REP. FISHER wondered how many full-time equivalent (FTE) employees would be needed with the increase in regulated businesses. Ms. Goodwin answered that two have been provided for, but they may have to request more with time. Mr. Bender explained that the Division is funded by a regulated industry, not by General Fund monies.

SEN. WHEAT asked how much it will cost the State for commercial insurance. Mr. Bender replied that \$30 million will be needed, 30% of which will come from the General Fund. He said that the agencies will receive the money through their budgets, but the first hurdle will be to get approval through the Budget Office. Mr. Bender explained that in the past, the DOA was mechanically funded by the previous three years' insurance claims to project the future years' budget. A recent audit noted that the DOA must change to a system that is actuarially sound, setting aside money for each lawsuit as it is filed. He said that the new plan can be phased in to avoid having to double rates. Mr. Bender added that a fund is already set up to handle the claims, there just is not enough money in that fund. REP. JENT wondered about the statute that provides for the funding of claims reserves. Mr. Bender replied that the State self-insures those claims.

- **Public Employees' Retirement Administration and Board (PER)**
Terry Teichrow, Chairman, PER Board, introduced the members of the Board to the Committee.

Mike O'Connor, Executive Director, PER Administration, provided and explained several exhibits. EXHIBIT 3 contains his written comments, EXHIBIT 4 is a summary table of the PER retirement plans, and EXHIBIT 5 shows the financial transactions of the PER Administration.

EXHIBIT 6 is a report by Greg DeWitt, Legislative Fiscal Division, entitled, "PERS Unfunded Liability", EXHIBIT 7 is a printout of the Vanguard 500 Index statistics, and EXHIBIT 8 compares Montana's PER System with neighboring states. Mr. O'Connor gave a brief background regarding the MPERA and the retirement plans offered. He said that two issues currently facing PERA are the startup costs for the new Defined Contribution Retirement Plan (DCRP), and the funding issues for the Defined Benefit Retirement Plan (DBRP). He explained that investment market losses have reduced the assets available to pay previously incurred benefit obligations. The three options he mentioned were: 1) if earnings increase above 8%; 2) increase contributions paid; or 3) decrease benefits or administrative costs. REP. FISHER asked about the definition of an "active" employee. Mr. O'Connor explained that it includes any current employee contributing into the system.

- **Teachers' Retirement System and Board (TRS)**
David Senn, Executive Director, went through his written comments (EXHIBIT 9), and provided the Committee with EXHIBIT 10, the TRS Annual Report. Mr. Senn went through an overview of the TRS and explained the major issues before the TRS. The three main issues he delineated are: 1) funding retirement benefits; 2) Guaranteed Annual Benefit Adjustments (GABA) and future benefit adjustments; and 3) phased retirement arrangements - work after retirement. He added that the market value funded ratio on Table 5 of Exhibit 4 is blank, but should have included the value of 67% for the TRS.
- **Montana U-System's (MUS) Optional Retirement Plan**
Linda Ryckman, Director of Benefits, MUS, gave a very brief overview of the University System's functions, stating that the Benefits Division's number one responsibility is to administer the health plan.

Commissioner of Political Practices

Linda Vaughey, Commissioner, explained that her office is attached to the Secretary of State's (SOS) Office and stated that 85% of their time is spent on election and campaign finance. She took the Committee through her written report, included as EXHIBIT 11. She also provided the Committee with a brochure regarding campaign finance and practices (EXHIBIT 12), a Contribution Limits Summary sheet (EXHIBIT 13), the status of official complaints filed (EXHIBIT 14), and campaigndisclosure.org's "grading disclosure" comparing various aspects of the state's campaigning laws and programs on a national scale (EXHIBIT 15). REP. FISHER asked how much General Fund money is appropriated to her office. Ms. Vaughey responded that the SOS-collected revenues are simply pass-through funds; only the filing fees stay with the SOS. She added that licensing fees and civil penalties go to the General Fund as well. Ms.

Vaughey then explained the Montana Interactive Incorporated (MII) program for electronic filing. She voiced her doubt about the program being able to handle all of the inquiries on the system. When questioned about the disclaimers on campaign signs, she explained that they have to be clearly and conspicuously placed, but one side is sufficient for a double-sided sign.

Department of Military Affairs (DMA)

Gen. Randall Mosley, Assistant Adjutant General, went through a PowerPoint presentation containing photographs of units, facilities, and missions the DMA has been involved with recently. He said that it is their goal that the Helena facility become the headquarters of the state military affairs and training. He distributed a brochure for Fort Harrison (EXHIBIT 16), a 2002 Impact Brochure (EXHIBIT 17), a memorandum regarding the Montana National Guard support during the 2003 fire season (EXHIBIT 18), and a memorandum regarding their support to Operations Noble Eagle and Enduring Freedom (EXHIBIT 19). **Col. Brad Livingston** further explained the missions and deployments of the Montana National Guard. **Jim Green, Administrator, Disaster and Emergency Services, Homeland Security Advisor for the State of Montana**, discussed the structure of the Division, the members of the Homeland Security Task Force, and their duties. He provided the Committee with EXHIBIT 20, a table of grant allocations by county. **Gen. Mosley** finished by explaining the ChalleNGe program for at-risk youth ages 16-18 to train with the National Guard, and the program's success.

- **Board of Veterans' Affairs and Montana Veterans' Affairs Division (MVAD)**
Lt. Col. Joe Foster, Administrator, went through his written comments (EXHIBIT 21), a copy of the follow-up performance audit of MBVA and MVAD (EXHIBIT 22), his testimony regarding the CARES program (EXHIBIT 23), and a photo of Delaware's mobile veterans' unit (EXHIBIT 24). SEN. LENHART asked how the National Guard's long-term deployment has affected recruitment, and its affect on employer/employee relations. Gen. Mosley explained that originally, the overseas deployment was to be only six months, but has been extended to over one full year. He said that MVAD is doing what they can to ease tension by sending letters to employers to preserve the deployed soldiers' jobs, but they have also received letters from soldiers' families complaining about the length of deployment. Gen. Mosley said that they don't know the exact impact on recruitment, but also that they haven't attained their recruiting goals for the last twelve months. He added that they are recruiting a lot of college kids. REP. JENT asked about the number of Air Guard members receiving scholarships. Col. Livingston said that number is about 60-75. Gen. Mosley added that they have more requests for scholarships than they can provide. He stated that Montana is competing against neighboring states like North Dakota and South Dakota who provide 100% tuition waivers for recruits.
- **Montana's State Veterans' Nursing Homes, DPHHS**
Kelly Williams, Administrator, Senior and Long-Term Care Division, went through her written comments contained in EXHIBIT 25. She described the demographics of Montana's veterans as well as the Eastern Montana Veteran's Home in Glendive and the Montana State Veterans' Home in Columbia Falls. Ms. Williams also explained about the MVH Special Care Unit and the HB 5 Long Range Building requests, as well as the actions of Legislature as related to the Veterans' Homes.

Secretary of State's Office:

Jason Theilman, Chief Deputy, Secretary of State (SOS), explained that the Office of the SOS is the “front door” to businesses in Montana. The basic duties of the SOS include: chief records keeper, election officer, State Land Board member, Business Services Bureau, and administrative rules. He introduced the officers serving in the SOS Office, stating that some of the Office’s main accomplishments include internet information and the elections process.

- **Briefing: Implementing Help America Vote Act (HAVA)**

Amy Sullivan, Chief, Election Bureau, went through a PowerPoint presentation to illustrate the requirements and status of Montana’s compliance with HAVA (EXHIBIT 26). She explained the requirements that the state has already accomplished, and informed the Committee of the specific plans to comply with the rest of the requirements. Ms. Sullivan described the voter registration database, the voting rights of overseas and military electors, educational efforts aimed at the public and voting officials, and funding, as well as enforcement of the Act.

III. UPDATE ON MHP RECRUITMENT AND RETENTION ISSUES

Col. Shawn Driscoll, MHP Chief, and Administrator of the Highway Patrol Division, distributed several exhibits to give an overview of the Montana Highway Patrol (MHP), including their history, recruitment, and mission. EXHIBIT 27 is a copy of the MHP mission statement, EXHIBIT 28 contains their goals for the year, EXHIBIT 29 is the MHP 2002 Annual Report, EXHIBIT 30 is a packet of MHP wage comparison sheets for 2003, EXHIBIT 31 is a binder containing the MHP Recruitment and Retention Survey and Analysis as performed by Employee Benefit Resources, LLP, and EXHIBIT 32 is a letter from the Attorney General to the individual committee members. He explained that the MHP is having a problem recruiting and retaining officers due in large part to the wage competition from various counties. He explained that MHP officers are always on call with their duties rising, but the number of officers remains stagnant.

REP. FISHER had a question regarding the number of officers presently on the road versus ten years ago. Col. Driscoll answered that he did not have exact numbers, but from 1995-1997, there were 212 officers; now there are 204 patrol duty officers and 2 executive protection officers. He added that there has not been an increase in manpower on the road since 1973. SEN. BALES wondered why the chart in Exhibit 30 excludes Dawson county. Col. Driscoll stated that there are only a few officers in those little towns and are not reflective of the cost of living; the majority are located in larger population bases. REP. JENT asked about the recruitment requirements. Col. Driscoll explained that the MHP requires a high school education, aptitude testing, physical fitness standards, and various interviews, but that they have not changed from past requirements.

IV. UPDATE ON STATE INFORMATION ACCESSIBILITY AND STORAGE

Judy Meadows, State Law Librarian, informed the Committee of a challenge facing state governments regarding the permanent public accessibility of information that is stored digitally. She explained that many State agencies’ staffs do not understand that the whole life cycle of government documents placed on the internet need to be preserved. She said the need is three-fold: 1) ensure that information can be easily located; 2) provide for the stamp of

authenticity on documents; and 3) ensure that long-term value is preserved for public access. Ms. Meadows included a copy of the report she filed regarding Montana's status for the "State-by-State Report on Permanent Public Access to Electronic Government Information" (EXHIBIT 33). Ms. Meadows added that she is involved with a task force that is pursuing a grant request called the Montana Records Project.

SEN. GEBHARDT asked how information is currently preserved from the internet. Ms. Meadows responded that it is regularly lost; unless it is stored off-site, the information will not be saved. She added that another issue is how to ensure the readability and access to old forms of documents. REP. OLSON wondered how much this project will cost. Ms. Meadows responded that cost has been the biggest hurdle in other states, but is still very necessary.

**SEN. WHEAT and REP. LENHART were excused from the meeting after this point.*

V. ADMINISTRATIVE RULES REVIEW

John MacMaster, LSD Staff Attorney, gave a briefing on the PERA rule for implementing SB 145, i.e. the purchase of federal volunteer services as service credit for state retirement. He read and explained the memorandum from Melanie Symons, Legal Counsel, Montana PER Board (EXHIBIT 34). He also distributed a memo from himself regarding the problem with the new administrative rule (EXHIBIT 35), a memo entitled "Interim Committee Powers Relating to Administrative Rules" (EXHIBIT 36), and an article entitled, "The Need for the Montana Administrative Procedure Act and Legislative Oversight, Under MAPA, of Administrative Rulemaking" (EXHIBIT 37). Mr. MacMaster stated that he is bringing forth this issue for the Committee's knowledge, so they can determine any course of action they might want to pursue.

Melanie Symons, Legal Counsel, Montana PER Board, explained that the Board views volunteer services as the two separate divisions stated: 1) service in a "United States service program, such as the Peace Corps"; and 2) a successfully completed specific term of service described in the National and Community Service Act of 1990. The Board wants this specific language so they don't have to make continued decisions regarding what service qualifies and what does not.

SEN. GEBHARDT explained that he was on the Senate State Administration Committee and they didn't define it to be limited to Peace Corps service only. Mr. MacMaster stated that is an issue of service versus statute. There will always be the problem of proving the time of service, but a person should not have to defend the legitimacy of their service before the Board. Ms. Symons interjected that the Board is talking about two types of service. REP. FISHER suggested that the statute be changed to include the Peace Corps only, to clarify the issue, and amend the statute as applicable in the future. SEN. TROPILA explained that language is already in the statute. REP. OLSON requested copies of the House and Senate State Administration Committee hearings on the bill to offer clarification regarding the original interpretation and intent. Mr. MacMaster said that he looked at the minutes, and they shed no light on the subject. He also talked with Sen. Bohlinger, the bill's sponsor, who stated that they had not even thought about the issue. **Pat Murdo, Senate State Administration Committee Research Analyst**, added that AmeriCorps was specifically mentioned during the hearing to be included, but others were not specifically included. The Senate State Administration Committee determined that AmeriCorps already received a form of remuneration, and should not be

included in the retirement option. Ms. Symons informed the Committee that the language initially adopted in the House of Representatives was changed after the bill went to the Senate and that was ultimately enacted.

VI. PUBLIC COMMENT RELEVANT TO THE PURVIEW OF THE SAIC

Roger Hagan, Officer Enlisted Associations for the National Guard and the Great Falls Airport Firefighters, stated that in the next biennium, he will work with the Committee to provide legislation for a retirement system for the Air National Guard firefighters. He added that 165-170 students participate each year in the scholarship program, with about 120 applicants turned away.

Joe Walsch, Bozeman citizen involved with the Veterans' Resource Coalition, Veterans' Resource Council, Interagency Council, and the Montana Consensus Council, said there is an effort for communication between veteran groups to help homeless veterans receive entitlements in a timely fashion. He also suggested that the Committee consider legislation for a licensing board for general contractors.

VII. COMMITTEE DISCUSSION AND EXECUTIVE SESSION

Review, revise, and adopt the meeting schedule

Acting Chairman TROPILA referred to the proposed meeting schedule (EXHIBIT 38). REP. FISHER *moved* to accept the meeting schedule as proposed. The motion carried unanimously by voice vote.

Identify issues and topics of interest to the Committee

Dave Bohyer referred to the handout entitled, "Topics of Potential Interest to the Committee" (EXHIBIT 39), and provided a draft letter to the Economic Affairs Interim Committee (EAIC), requesting their continued monitoring of the Montana State Fund (EXHIBIT 40). SEN. BALES *moved* to continue the policy of State Fund monitoring under the EAIC. The motion carried unanimously by voice vote.

SEN. BALES voiced interest in addressing the following topics: DOA tort defense, DOA retirement system, rules regarding legislation, and DMA recruitment issues. SEN. TROPILA added to include the MHP recruitment and retention, the PER Board administrative rule issue. REP. FISHER also expressed interest in pursuing the MHP recruitment and retention issue. Mr. Bohyer interjected that the Legislative Audit staff is conducting a performance audit on the MHP this fall and he will keep the Committee informed of the audit. REP. FISHER added that he believes there are mitigating circumstances outside of the salary issue that is causing the MHP problems that the Committee can help them identify. SEN. TROPILA suggested the PER Board rule review, and the examination of the tapes and minutes of the State Administration Committee hearings. Mr. Bohyer added that regarding the DOA retirement issue, Greg DeWitt, Legislative Fiscal Division, will report to the Committee in January. He stated that the Legislative Finance Committee (LFC) is also addressing the issue. SEN. TROPILA added that the LFC is meeting next week.

VIII. OTHER BUSINESS

- **Election of officers:** delayed until the January meeting to allow all Committee members to vote.

ADJOURN

Acting Chairman TROPILA adjourned the meeting at 4:35 p.m. The next meeting is scheduled for Monday, January 26, 2004.

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