

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION

JOINT APPROPRIATIONS SUBCOMMITTEE ON GENERAL GOVERNMENT AND TRANSPORTATION

Call to Order: By **CHAIRMAN JOHN SINRUD**, on January 19, 2005 at 8 A.M., in Room 317-B Capitol.

ROLL CALL

Members Present:

Rep. John Sinrud, Chairman (R)
Rep. Rosalie (Rosie) Buzzas (D)
Sen. Lane L. Larson, Vice Chairman (D)
Sen. Rick Laible (R)
Rep. Jon C. Sesso (D)
Sen. Corey Stapleton (R)
Rep. Janna Taylor (R)

Members Excused: Sen. Mike Cooney (D)

Members Absent: None.

Staff Present: Marilyn Daumiller, Legislative Branch
Greg DeWitt, Legislative Branch
Linda Keim, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted:
Executive Action: Banking, Consumer Counsel,
Appellate Defense, Consensus
Counsel

EXECUTIVE ACTION

Proprietary Rates
Rates for Central Stores Page A-208

CHAIRMAN SINRUD opened the meeting.

Motion: **SEN. LAIBLE** moved RECONSIDERATION OF 1/18/05 VOTE ON CENTRAL STORES RATES.

Discussion:

SEN. LAIBLE said that Central Stores was left with a rate of 2%, and, after further discussion, he is concerned that the 2% rate is too low to cover their costs. **CHAIRMAN SINRUD** asked for questions, and there were none.

Vote: Motion carried 7-1 by voice vote, with **SEN. STAPLETON** voting no. **SEN. COONEY** voted yes by proxy.
{Tape: 1; Side: A; Approx. Time Counter: 0 - 3.9}

SEN. LAIBLE suggested adding language requiring a report to this Committee at the next legislative session. **CHAIRMAN SINRUD** noted this is an amendment to the rates for Central Stores.

Motion/Vote: **SEN. LAIBLE** moved 3% MARK-UP RATE ON RETAIL SALES FOR CENTRAL STORES WITH LANGUAGE AS STATED TO RESTRICT EXPENDITURE OF REVENUES. Motion carried unanimously by voice vote. **SEN. COONEY** voted yes by proxy.

Present Law Adjustments
Proprietary Rates
MANAGEMENT SERVICES UNIT Page A-188

CHAIRMAN SINRUD stated that Committee action on 1/18/05 approved 30-Day Working Capital (WC) for the Management Services Unit, and asked the Committee to reconsider going to 45-Day.

Motion/Vote: **REP. SESSO** moved RECONSIDERATION OF 1/18/05 VOTE ON THE MANAGEMENT SERVICES UNIT RATES. Motion carried unanimously by voice vote. **SEN. COONEY** voted yes by PROXY.

Discussion:

CHAIRMAN SINRUD asked Steve Bender for input. **Steve Bender, Director Department of Administration**, requested reconsideration of the Committee's action on the Management Services Unit

proprietary rates, to allow 45-Day WC, including adjusting expenses to not include 4% vacancy savings. The rates do not include any provision for pay plan funding. With those adjustments factored in, the 30-Day WC will leave them \$50,000 in the red.

CHAIRMAN SINRUD asked what the impact of HB 13 will be, and if other pay plans have been considered. **Mr. Bender** indicated that HB 13 will cost about \$52,000 to fund pay and insurance increases. He did not know if there were any other pay plans.

CHAIRMAN SINRUD asked if 4% vacancy savings rate is mandatory. **REP. BUZZAS** said it is not mandatory, but it is the global motion that is accepted for agencies.

CHAIRMAN SINRUD asked Mr. DeWitt for more information about global motions. **Mr. DeWitt** emphasized that the common decision was just a starting point and can be adjusted.

(Note: SEN. COONEY is now present at this meeting.)

CHAIRMAN SINRUD referred to Page A-188 and said that if they approve the rates as requested in Figure 3C, they will be approving about 45-Day WC; their request was for 60-Day WC. The budget numbers on Page A-187 removes the vacancy savings. If the vacancy savings is put back in at about \$46,000 and the pay plan is included, the ending fund balance goes to about 45-Day WC.
{Tape: 1; Side: A; Approx. Time Counter: 3.9 - 15}

Motion: SEN. LAIBLE moved that RATES FOR MANAGEMENT SERVICES UNIT ON PAGE A-188, FIGURE 3C, BE ADOPTED AS PRESENTED. Motion carried unanimously by voice vote.

DP 3 - STATE DAY CARE LEASE RATES

Motion: SEN. COONEY moved RECONSIDERATION OF ACTIONS TAKEN 1/8/05 ON DP 3, STATE DAY CARE LEASE RATES.

Discussion:

SEN. COONEY said that this is a small amount of money; the project is well justified and beneficial to the people involved. He would be willing to look into providing this benefit to all state employees in Montana.

SEN. LAIBLE pointed out that the problem is the message being sent out to all state employees giving preferential treatment to Helena workers; money is not the issue. He would like to follow

up on REP. SESSO's suggestion to try and find a way to spread the money out to all state employees.

CHAIRMAN SINRUD suggested keeping this section open and asking the Department to determine how many people are affected and what the residual would be. This is a benefit, and ends up being a nine percent increase per year.

SEN. COONEY agreed that state funded daycare helps boost productivity. He has found that the employees who do not need this benefit are willing to help their fellow employees. He agreed with keeping options open and getting more information.
{Tape: 1; Side: A; Approx. Time Counter: 15 - 24}

REP. BUZZAS said that we need to think more about building on what they have and making it available to other employees, rather than taking away what we started because not everyone lives in Helena.

SEN. LARSON said that this is not a lot of money to them, but it is to someone with several kids.

SEN. LAIBLE said that they are only talking about dropping the additional funding. He suggested looking at language for next session to make this benefit available to all taxpayers.

SEN. COONEY withdrew his motion.

CHAIRMAN SINRUD asked that the department get as much information on this program as possible for the committee to review.
{Tape: 1; Side: A; Approx. Time Counter: 24 - 28.5}
(Tape 1, Side B did not work and is intentionally left blank)

HEARING AND EXECUTIVE ACTION

BANKING AND FINANCIAL DIVISION

Present Law Adjustments

DP 1404 - COMPENSATORY BASED PAY PLAN Page A-228

CHAIRMAN SINRUD introduced Anne Goodwin to explain the request.

Anne Goodwin, Department of Administration, explained the handout, "Salary Rates," and requested consideration of DP 1404. She said that State Bank Examiner's salaries are not keeping up with the market and they are losing examiners to private companies.

EXHIBIT(jgh14a01)

Mr. DeWitt explained that the numbers he used were from the State Personnel web page. He explained that his numbers are different, because the department did a study specific to comparable jobs with private companies.

SEN. LAIBLE asked Ms. Goodwin about the benefit structure. **Ms. Goodwin** referred to a column on handout: "Total x 2080," which takes into account the longevity of each individual's salary. It does not take the benefits into account. Even with the benefits, salaries are not comparable with other states.

SEN. LAIBLE referred to the decision package, and asked where people would fall in this range of salaries, taking into consideration their hire dates, experience, pay band, etc. **Ms. Goodwin** said that she plans an ongoing increase in the salaries of examiners new to the division, and those with less than 15 years, to bring them up to market. She noted that significant progress has been made in the last two years.

SEN. LAIBLE expressed concern that in order to get new hires, we don't pay them more than existing employees. **Ms. Goodwin** noted on the chart that the long-time examiners are at market, and will continue to be recognized for their longevity.

REP. SESSO and Ms. Goodwin discussed the .25 section.
{Tape: 2; Side: A; Approx. Time Counter: 9.6 - 18}

REP. LAIBLE asked if the committee can approve this pay plan and then, based on HB 13, adjust this amount in the language retroactively, so they don't get a double increase. **Ms. Goodwin** said that each employee is evaluated, and very few employees have not received any increase in the last two years. She was not sure how they would address HB 13 with those employees who did not have good performance evaluations.
{Tape: 2; Side: A; Approx. Time Counter: 0 - 18}

SEN. LARSON said that this is a chance to get examiners closer to where they need to be in comparison to the private sector.

Motion: **SEN. LARSON** moved that DP 1404 BE ADOPTED AS STATED.

Discussion:

REP. SESSO noted that there is no provision in HB 13 for new hires. **Ms. Goodwin** stated that new examiners are evaluated after six months to see if they are meeting expectations, and salaries can be adjusted on that basis.

REP. TAYLOR asked if Ms. Goodwin would have spending authority over the money if this is approved. If so, she may not use the total amount, depending on HB 13, but it would not come out of the General Fund. **CHAIRMAN SINRUD** said she has authority.

Substitute Motion: **SEN. STAPLETON** made a substitute motion that **RATES FOR GRADES 05 AND BELOW BE ADOPTED FOR DP 1404, AS STATED IN EXHIBIT 1.**

SEN. LAIBLE questioned that if approval is given without the substitute motion, would it result in additional fees to clients for audits, or is this being funded by volume. **Ms. Goodwin** said that the fees will remain the same.

SEN. LAIBLE noted that if we start losing people because we don't pay them, we are not giving the department the ability and the flexibility they need.

SEN. STAPLETON expressed concern that this would be a double pay increase and was not necessary.

{Tape: 2; Side: A; Approx. Time Counter: 18 - 29}

Mr. DeWitt explained that agencies will get the pay plan, but unless they ask for it separately, like Ms. Goodwin is, and they are in the broadband classification system; they won't have the double increase, and they only have the funding mechanism if they can find it within their existing authority. **CHAIRMAN SINRUD** said that this is a policy issue.

SEN. LARSON said that this would be giving flexibility to Ms. Goodwin and some incentive to the employees, because she would make the decisions on pay increases.

SEN. LAIBLE said that the committee can find out how HB 13 will affect employees and adjust the compensatory pay plan down proportionately so they wouldn't be funding them twice.

CHAIRMAN SINRUD asked Ms. Goodwin if she would make sure that the employee would not receive a double increase in pay, if both the Compensatory Pay Plan and HB 13 are approved. **Ms. Goodwin** said that would be difficult to do unless that was set forth in HB 13. As it is worded, all state employees are entitled to the increase. There may be employees who are not awarded any pay increase because they are not performing up to expectations.

{Tape: 2; Side: B; Approx. Time Counter: 4.2 - 13}

Ms. Goodwin asked **SEN. STAPLETON** and the committee to examine Grades 6 and below, as they are not at market rate, but have been

with the department for three to five years. Excluding individuals in pay band seven makes it difficult to work with a system that does not allow the entire division to be utilized.

REP. BUZZAS said that the intent of this decision package is to give the department flexibility to offer fair market value, but the substitute motion limits this.

SEN. LAIBLE asked Ms. Goodwin how many people are involved. **Ms. Goodwin** said that not all financial examiners are on the list. Also the attorney and two administrative support are not on the sheet. The total would be around 33-34.

Vote: Motion failed 7-1, with **SEN. STAPLETON** voting AYE. **SEN. COONEY** voted by proxy.

Motion/Vote: **SEN. LARSON** moved APPROVAL OF DP 1404, BROAD-BAND PAY INCREASE AS STATED. Motion carried 5-3 by voice vote, with **SEN. LAIBLE**, **SEN. STAPLETON**, and **REP. SINRUD** voting no. **SEN. COONEY** voted yes by proxy.

{Tape: 2; Side: B; Approx. Time Counter: 0 - 13}

(Note: The committee took a Break between 9:15AM and 9:25AM)

CHAIRMAN SINRUD noted that Marilyn Daumiller, Legislative Fiscal Division (LFD) Staffer is now present. Eileen Rose, OBPP Representative is now present instead of Christi Moyer.

{Tape: 2; Side: B; Approx. Time Counter: 13 - 18}

HEARING

Present Law

CONSUMER COUNSEL Page A-13 Item 1

Marilyn Daumiller, LFD, distributed "Montana Consumer Counsel Increase of Authority" and noted that this has no impact on the general fund. It is state special revenue. Page A-14 explains the taxes that are levied that give this funding. They are asking for authority to spend the taxes they have. Unspent taxes do not penalize the entity that was taxed, and are figured into the next year's assessment.

[EXHIBIT\(jgh14a02\)](#)

Bob Nelson, Director, Montana Consumer Counsel, gave a background of the Consumer Counsel office, and discussed their funding mechanism. This office audits and analyzes utility activities, and has saved consumers several million dollars.

{Tape: 2; Side: B; Approx. Time Counter: 18 - 29}

Mr. Nelson explained their budget request, DP 1, Present Law Base Adjustments, found on Page A-15.

{Tape: 3; Side: A; Approx. Time Counter: 0 - 11.4}

(Note: At the end of Mr. Nelson's presentation, Ms. Daumiller left the room. Mr. DeWitt returned for Appellate Defender.)

HEARING

APPELLATE DEFENDER Page A-259

Mr. DeWitt handed out "Appellate Defender Agency Profile," and gave a brief overview of the agency, which is funded by the general fund.

[EXHIBIT\(jgh14a03\)](#)

Chad Wright, Appellate Defender for the State, said that they provide legal counsel for indigent persons who wish to appeal a conviction. Their major issue is a budget cut. Specialized training has been eliminated, local travel has been reduced by car pooling to the prison, and they have switched to in-house printing. They can't control the costs of investigations and telecommunications. He noted that \$7,000 to \$8,000 is spent per year on telephone calls to the state prisons, because the Department of Corrections (DOC) refuses to make an exception, and allow calls to an 800 number or a calling card. A 15-minute collect call from Montana State Prison costs \$16.

CHAIRMAN SINRUD suggested a committee bill requiring DOC to change their policy and allow this exception. He will determine the intent of a bill sponsored by SEN. SHOCKLEY and follow up.

Mr. Wright noted that SB 146 proposes to eliminate the Appellate Defender office 7/1/06. He said that they need to return to having a full case load, as that saves the state money.

{Tape: 3; Side: A; Approx. Time Counter: 11.4 - 30}

Discussion:

CHAIRMAN SINRUD explained and discussed an issue with SEN. STAPLETON; i.e., if an attorney is not paid consistently with a counterpart within the legal system, then the defendant is not getting the proper legal representation; therefore there is a violation of the constitution. **Mr. Wright** said they need to attract qualified people. To have appropriate funding would

require restoring \$3,150, which would be equivalent to a pay increase for their office.

CHAIRMAN SINRUD asked Mr. Wright to make a list of the things his office needs to adequately do their job.

{Tape: 3; Side: B; Approx. Time Counter: 0 - 15}

HEARING

Montana Consensus Counsel Page A-262

Mr. DeWitt handed out "Montana Consensus Council Agency Profile," introduced the Consensus Counsel presentation, and noted that this agency is funded with state special revenue derived from fees charged for services. Other exhibits are: the agency's own profile, HB 741, letter from Dudley Weeks, funding request, and "Legal Costs."

[EXHIBIT\(jgh14a04\)](#)

[EXHIBIT\(jgh14a05\)](#)

[EXHIBIT\(jgh14a06\)](#)

[EXHIBIT\(jgh14a07\)](#)

[EXHIBIT\(jgh14a08\)](#)

[EXHIBIT\(jgh14a09\)](#)

Judy Edwards, Executive Director, Montana Consensus Council (MCC), gave an overview of the agency, detailing the major functions.

CHAIRMAN SINRUD asked if the agency had discussed open meeting laws with the commissioners, as doing this would resolve some of their conflict. **Ms. Edwards** said that they would do so.

{Tape: 3; Side: B; Approx. Time Counter: 15 - 30}

SEN. LAIBLE referred to a staff member who left to do the same job at the university. **Ms. Edwards** said that he is doing MCC work at the university, and is now a competitor.

REP. SESSO asked what the potential savings to the state would be if MCC were used more extensively. **Ms. Edwards** said that the most impact would be in the areas of litigation and public support.

REP. SESSO asked about the loss of general funding, and asked what percentage of the budget could be covered by fees. **Ms. Edwards** cited a lack of visibility in the Governor's Office as the reason for problems with working through policy issues. Fees were about 70 percent of the total budget last year, this year it

is about 20 percent. **REP. SESSO** stated that he has some ideas for consideration.

{Tape: 4; Side: A; Approx. Time Counter: 0 - 6.7}

REP. SESSO said that he is a five-year member of MCC, and handed out "Montana Consensus Council New Proposals."

EXHIBIT(jgh14a10)

REP. SESSO's research brought up ten agencies that spent \$2 million for outside counsel fees associated with litigation for the fiscal year ending in 2004. He suggested asking those agencies to transfer some of their funds to MCC and ask for help from MCC first, considering litigation as a last resort. New proposals are outlined in DP 1, DP 2, DP 3 and include a funding switch, an additional .5 FTE Administrative Support, and an increase of \$100,000 state special revenue for each of the next two years.

CHAIRMAN SINRUD said that they will wait on executive action for MCC to allow the budget office to give input. He outlined the following schedule: Executive Action on the Appellate Defender Commission and Consumer Counsel 1/20/05, Judiciary Overview 1/21/05, and Judiciary Hearings 1/24 and 1/25. Legislative Branch Hearings will follow, as scheduled.

{Tape: 4; Side: A; Approx. Time Counter: 6.7 - 18.1}

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ADJOURNMENT

Adjournment: 10:50 A.M.

REP. JOHN SINRUD, Chairman

LINDA KEIM, Secretary

JS/lk

Additional Exhibits:

EXHIBIT ([jgh14aad0.PDF](#))