



State Administration and Veterans' Affairs Interim Committee

62nd Montana Legislature

SENATE MEMBERS

KENDALL VAN DYK--Vice Chair
RON ARTHUN
LARRY JENT
DAVE LEWIS

HOUSE MEMBERS

PAT INGRAHAM--Chair
BRYCE BENNETT
JOANNE BLYTON
KATHY SWANSON

COMMITTEE STAFF

SHERI SCURR, Lead Staff
DAVID NISS, Staff Attorney
FONG HOM, Secretary

MINUTES

August 8-9, 2012

August 8, 2012

Room 137, Capitol Building
Helena, Montana

Please note: These minutes provide abbreviated information about committee discussion, public testimony, action taken, and other activities. To the left of each section in these minutes is a time designation indicating the approximate amount of time in hours, minutes, and seconds that has elapsed since the start of the meeting. This time designation may be used to locate the referenced discussion on the audio or video recording of this meeting.

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Hard copies of the 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

REP. PAT INGRAHAM, Chair
SEN. KENDALL VAN DYK, Vice Chair

SEN. RON ARTHUN
SEN. LARRY JENT
SEN. DAVE LEWIS

REP. BRYCE BENNETT
REP. JOANNE BLYTON
REP. KATHY SWANSON

STAFF PRESENT

SHERI SCURR, Lead Staff
DAVID NISS, Staff Attorney
FONG HOM, Secretary

Agenda and Visitors' List

Agenda (**Attachment 1**)
Visitors' list (**Attachment 2**)

COMMITTEE ACTION

- The minutes of the June 11-12, 2012 meetings were approved.
- The committee adopted the proposed statutory language change regarding the Montana Board of Veterans Affairs.
- The committee voted to allow the Department of Administration to proceed with drafting the proposed amendments to 31-1-201, MCA.
- The committee approved the bill draft request recommended by the Joint Subcommittee on PERS and TRS, and scheduled a meeting in September to consider those bill drafts.
- The committee decided to track funding of the retirement systems both at 100% and 107%, and at 30 years and 40 years, for comparison purposes.

CALL TO ORDER AND ROLL CALL

00:00:01 REP. INGRAHAM called the meeting to order at 9:01 a.m. The committee secretary called roll. Everyone was present.

APPROVAL OF THE JUNE 11-12, 2012 MINUTES

00:01:06 The minutes of the June 11-12, 2012 meetings were approved.

00:01:09 REP. INGRAHAM discussed page 11 of the minutes from the June 12th meeting regarding the coverage of expenses for actuaries to run numbers in the retirement systems.

00:03:28 Ms. Scurr said that both PERS' and TRS' actuaries told Ms. Minnehan and Mr. Senn what the costs would be, and that discussion would not be reflected in the June 12 minutes.

OVERVIEW OF THE AGENDA AND MEETING DOCUMENTS

00:04:11 Ms. Scurr gave an overview of the agenda and the meeting materials.

AGENDA

MONTANA STATE VETERANS' HOMES

• **Legislative Audit 12P03 - Ross Johnson, Legislative Auditor**
00:10:14 Mr. Johnson gave a presentation on the Legislative Audit 12P-03 that was done on the State Veterans' Homes in Montana (**Exhibit 1**).

Committee questions
00:33:44 REP. INGRAHAM asked about the history of the dispersion of tobacco funds and why there was so much disparity between Glendive and Columbia Falls. **Sen. Lewis** said Columbia Falls had the base amount of cigarette tax money and when Glendive was built, they received the leftover money.

00:35:06 SEN. JENT asked about the total state funds going to Columbia Falls. **Mr. Johnson** referred to the chart showing Cigarette Tax Funding and said that Columbia Falls receives about \$2 million per year.

00:36:29 SEN. JENT asked what the state gets back from the Veterans' Administration. **Mr. Johnson** discussed the reimbursement from the Veterans' Administration on a per resident per day basis, but that is not a refund.

00:39:09 SEN. JENT asked about workers' compensation insurance for Columbia Falls. **Mr. Johnson** said that the Department is working on ways to reduce the costs of workers' compensation insurance.

00:39:43 SEN. JENT said that most of the cost containment has to do with administrative expenses and not direct patient care expenses. **Mr. Johnson** said that the direct care are expenses could be reduced while not reducing quality care.

00:41:36 REP. BLYTON asked why the costs for service is higher for the residents at Columbia Falls who require less assistance. **Mr. Johnson** said that the residents at a veterans' home versus those at a retirement home might require different levels of care and might be more expensive to run.

PUBLIC COMMENT - none

00:43:50 REP. INGRAHAM asked that staff provide more information on the history of why there is such a disparity on the amount of tobacco tax money distributed to the two veterans' home.

MONTANA VETERANS' AFFAIRS DIVISION

- **Staff Review**

00:46:00 Ms. Scurr provided an institutional background of HB 142, the review of statutory advisory councils and reports.

- **Biennial Report - Joe Foster, Administrator**

00:54:32 Mr. Foster discussed the Veterans' Affairs Division's recommended language changes regarding biennial reports (**Exhibit 2**).

Committee questions

00:56:46 REP. INGRAHAM asked about the recommended language change that addresses revenue and expenditures but not the needs assessment.

00:58:27 Ms. Scurr said that the recommended language adds the expenditures but deletes the needs assessment as part of the biennial report, but not under the duties of the division. She said that if the Veterans' Affairs Division cannot do the needs assessment, then that assessment should be deleted from the statute.

01:02:37 SEN. JENT said he agreed that the needs assessment requirement should be eliminated.

PUBLIC COMMENT - none

Motion

01:04:45 SEN. ARTHUN moved to adopt the proposed statutory language change regarding the Montana Board of Veterans Affairs. The motion passed unanimously by voice vote.

STATE EMPLOYEE HEALTH CLINIC

- **Department of Administration's response to Sen. Arthun's question**
01:06:44 Ms. Scurr reviewed the questions and answers that were contained in the Department of Administration's memorandum dated July 24, 2012 (**Exhibit 3**):

Committee questions
01:08:03 SEN. LEWIS asked about the status of the legal challenge by MiCare, a company that also applied for the contract for the clinic. **Sheryl Olson, Deputy Director**, said that the company, MiCare, filed a protest but had not yet gone to court.

01:10:12 REP. INGRAHAM asked if the terms of the contract deals just with the clinic in Helena or is there a contingency that addresses developing more clinics throughout the state. **Ms. Olson** said that the contract envisions that the Department will try to open as many clinics as possible throughout the state.

- **LCsa03 - Provide that expenditures and alternatives for providing state employee group benefits be subject to legislative appropriation and approval**
01:12:20 Ms. Scurr gave an overview of LCsa03 (**Exhibit 4**).

PUBLIC COMMENT ON LCsa03

01:18:38 **Russ Hill, Administrator, Department of Administration**, discussed the unintended consequences if LCsa03 becomes a bill.

Committee questions
01:21:49 REP. INGRAHAM asked Mr. Hill if he believes that the Legislature would not be supportive of any programs. **Mr. Hill** said that he can't say how future legislatures would act on a proposal brought before them, but the issue of a time delay is a significant.

01:23:19 SEN. LEWIS asked what was meant by "The department shall, prior to implementation of any alternative to conventional insurance...." **Ms. Scurr** said that the words "alternative to a conventional insurance" has to do with the fact that the state is self-insured.

01:24:39 SEN. JENT said that the committee is looking for legislative oversight and at the same time coming up with an appropriation for health care. One of the things that the committee could do is define the available alternative to the employee benefits group.

01:26:07 SEN. LEWIS said that if the committee took out "any alternative must be

approved by the legislature prior to implementation....", the assumption would be that unless the clinic could show that in fact they were going to reduce costs by starting the clinic, they couldn't go ahead.

01:29:34 SEN. JENT said that oversight is in 17-7-501, MCA. He referred the committee to subsection (e), and said that other state employee group benefits plan cost is inclusive. If there are any other costs, it has to go through the process.

PUBLIC COMMENT

01:32:10 **Mary Ann Dunwell, Montana Environmental Quality**, provided written comments regarding the Montana Employee Health Center (**Exhibit 5**).

01:36:45 **Gary Martinsen, Department of Labor and Industry**, supports the health center.

Committee discussion on LCsa03

01:38:07 REP. INGRAHAM discussed either studying the bill further or approving subsection (e) to take care of language in subsection (7).

01:40:58 SEN. VAN DYK said that this committee has not made any decisions on the direction of where it wants to go. The one thing that has been demonstrated is that the existing statute allows for the state agencies to take on cost-saving measures and hampering a state agency to save taxpayer dollars is not where the committee wants to go.

01:42:12 SEN. LEWIS said that the language in subsection (6) states that the Legislature would appropriate funds, and by having appropriation limitations, it means that the Department of Administration cannot make any major changes unless it reduces costs. He would like to stay with the appropriation control.

01:43:08 REP. INGRAHAM asked Sen. Jent and Sen. Lewis to work with Ms. Scurr on a bill. REP. INGRAHAM deferred LCsa03 until the September meeting.

BREAK - reconvene at 11:01 a.m.

DEPARTMENT OF ADMINISTRATION PROPOSED LEGISLATION

- **Amend the Montana Retail Installment Sales Act (31-1-201, MCA)**

02:00:30 Ms. Kelly discussed the proposed amendments to 31-1-201, MCA (**Exhibit 6**).

Committee questions

02:02:21 REP. INGRAHAM asked for clarification on the words "brick and mortar" or "de minimus" as contained in the proposed amendments. **Director Kelly** clarified the language in the proposed amendment.

02:04:49 SEN. JENT asked about the amendment to the Montana Retail Installment Sales Act. **Director Kelly** said that she can't answer that question, but the Department's intent was to look at the laws over which the Department has

responsibility and attempt to clean up those laws.

PUBLIC COMMENT - none

Motion

02:09:58 Sen. Arthun moved to allow the Department of Administration to proceed with drafting the proposed amendments to 31-1-201, MCA. The motion passed unanimously by voice vote.

Lunch Break - reconvened at 1:01 p.m.

REPORT OF THE JOINT SUBCOMMITTEE ON THE GOVERNOR'S PENSION PROPOSAL

04:00:34 SEN. JENT and SEN. ARTHUN reported on the Joint Subcommittee's July 26, 2012, meeting (**Exhibit 7**). SEN. ARTHUN said that there is concern about how big an impact the Governor's proposal would be on local governments. SEN. JENT discussed the actuarial figures and the letters from the actuaries to PERS and TRS regarding the Governor's proposals.

Committee questions

04:13:06 SEN. LEWIS asked Sen. Jent about the numbers in the Governor's proposals. **Sen. Jent** discussed the Governor's numbers in PERS. He agreed that the committee should not only consider the PERS number but also consider what is owed for those in the local government sector.

04:15:07 SEN. ARTHUN asked Sen. Lewis about the funding mechanism. **Sen. Lewis** said that local governments do not see this as their obligation because it is a state-run system.

04:15:55 REP. INGRAHAM asked about the 1% increase for employer and employee. **Sen. Arthun** suggested looking at the rate of return and the way the economy is going. **Sen. Jent** said that 70% of the pension benefits is being funded by investments. There needs to be a greater contribution from the employees and employers.

04:20:41 SEN. ARTHUN asked Mr. Niss to discuss the legal implications of the 1% increase in the employer contribution. **Mr. Niss** said that in reading the Governor's proposal initially, a trip wire mechanism to send that 1% contribution increase back down would help the constitutionality of the legislation.

Motion

04:26:14 SEN. JENT moved to adopt the bill draft request from the Subcommittee's report to enact the Governor's proposed fixes to PERS and TRS plans and to work on a fix for the remaining pension plans.

Committee discussion

04:27:07 SEN. ARTHUN asked if Sen. Jent's motion covers the governor's proposal

verbatim.

04:27:20 SEN. JENT said that the committee would take the governor's proposal for TRS and PERS, and then do something else for the other plans.

04:27:41 Ms. Scurr asked that Sen. Jent add to his motion an additional meeting in September to look at the bill drafts.

Amended motion

04:27:55 SEN. JENT amended his motion to add a meeting in September for the purpose of further discussion on the proposals.

04:30:12 SEN. ARTHUN requested that the committee delay its vote on Sen. Jent's motion. He said that he still has questions about the \$25 million contribution from state lands.

04:30:37 SEN. JENT said that the proposal that the Subcommittee received gave more information on the proposals. He would like the Budget Office to present that to the full committee.

04:31:34 Ms. Scurr said that she would provide a briefing paper that follows up on the committee's actions from June meetings when it requested the actuarial analysis of Appendix B 1 through 7. Ms. Scurr said she would like a work session before agenda item 13.

04:37:38 SEN. VAN DYK said Sen. Jent's motion should be withdrawn and the committee could then request that the budget director discuss Sen. Arthun's concern about state land revenue.

04:38:17 **SEN. JENT withdrew his motion.**

04:38:25 **Dan Villa, Budget Director**, said that a proposal from the committee needs to be on the table to give ample time for analysis. He discussed the position of the Governor, which is to provide quality education that includes having quality teachers in the classroom and teachers having a solvent pension system. He recommended taking a look at the actuarial reports.

04:44:28 SEN. VAN DYK said that the committee has spent a lot of time creating subcommittee joint meetings, talking about having another meeting in September, but nobody is endorsing any particular legislation and no committee bills are being assigned today. He said that what Sen. Jent is doing is asking for the committee to adopt the Subcommittee's report. He would like to think that on this particular issue, the committee is here today for a reason.

PRE-SESSION SCREENING OF NON-AGENCY PENSION PROPOSALS

04:45:59 Ms. Scurr discussed the process used to review the pension proposals.

- 04:49:18 • **MEA-MFT Proposal - Diane Fladmo, Director of Research**
Ms. Fladmo discussed MEA-MFT's proposal to provide for long-term actuary soundness of the TRS system (**Exhibit 8**).

04:52:05 **Proponents**
David Senn

Opponents - none

Committee questions

04:54:41 REP. BENNETT asked if MEA-MFT's proposal would work independently with the Governor's proposal. **Ms. Fladmo** said that this proposal could work either way.

04:56:11 REP. INGRAHAM asked if the age of 60 was considered rather than the 65 because of extended life spans. **Ms. Fladmo** said that that point had been discussed and the actuaries have determined that even at retiring at age 60, they are improving the soundness of the system.
- 04:58:38 • **Association of Montana Retired Public Employees - Russell Wrigg, President**
Mr. Wrigg discussed the Association's proposal to require a portion of the expendable portion of coal severance tax collections be deposited into the retirement systems to fund liabilities (**Exhibit 9**).

Proponents

05:02:59 Melanie Symons, Chief Legal counsel, MPERA
05:04:10 David Senn, Executive Director, TRS

Opponents - none

Committee questions

05:05:12 SEN. LEWIS asked Mr. Wrigg about putting in a statutory appropriation from the coal severance tax to take \$15 million a year from the general fund. **Mr. Wrigg** said that they were requesting a portion of the coal tax revenue based on increased production.

05:08:13 REP. BLYTON asked, if there is no increase in the coal severance tax and there are no surpluses to fund this system, how would that make the retirement system sound. REP. INGRAHAM said that that is a tool to help the fund.
- 05:12:17 • **Montana Police Protective Association - Mark Murphy**
Mr. Murphy discussed the Montana Police Protective Association's proposal to change the definition of compensation to include all compensation and to delete (1)(b)(i) 19-9-104, MCA (**Exhibit 10**).

Proponents

05:19:01 Melanie Symons, PERB
05:20:03 Ed Cleary, President of Montana State Firemen's Association

05:20:54 Doug Neil

Opponents - none

- **Sheriff's Retirement System - Kathy McGowan**
05:24:50 No presentation was made.

- **Association of Public Safety Communications Officials International, Inc. (APCO) - Kimberly Burdock and Susan Bomstad**
05:25:57 Ms. Burdick discussed the APCO's proposal to allow the Montana Public Safety Dispatchers to join the Sheriff's Retirement System (**Exhibit 11**).

05:36:45 Susan Bomstad, 911 Coordinator at Missoula, discussed APCO's proposal for the 2013 Montana Legislature (**Exhibit 12**).

Proponents

05:47:17 Melanie Symons
05:47:34 Ed Cleary

Opponents - none

Committee questions

05:48:17 REP. INGRAHAM asked if this proposal deals just with new hires. **Ms. Bromstad** said that the proposal deals with new hires who automatically go into the Sheriff's Retirement System.

05:49:08 **Melanie Symons** said that a current dispatcher would have the option of staying in MPERS, or move into SRS, and then buy their PERS time.

05:49:56 REP. INGRAHAM asked if the Sheriff's Retirement System is actuarially sound. **Ms. Symons** said that they do not know the answer to that. They were surprised that the detention officers did not cost the system more than it did.

- **Sen. Art Wittich's Proposal - Sheri Scurr**
05:51:17 Ms. Scurr explained Sen. Wittich's proposal (**Exhibit 13**) to provide monetary incentives to public employees who would voluntarily switch from the DB plan to the DC plan.

Proponents - none

Opponents

05:54:11 Melanie Symons

BREAK - Reconvene at 3:11 p.m.

- **Sen. Dave Lewis' Proposal**
06:09:14 Sen. Lewis discussed his proposal (**Exhibit 14**) to require that all new PERS employees be covered in the Defined Contribution Plan.

Proponents - none

Opponents

06:16:16 Melanie Symons

06:17:18 Diane Fladmo

Committee questions

06:18:27 REP. BLYTON asked about the source of that funding. **Sen. Lewis** said that he was not talking about putting money in it, but looking at how you would handle it as an accounting issue.

• **Montana Association of Counties - Sheryl Wood, Associate Director**

06:21:40 Ms. Wood discussed MACo's proposal (**Exhibit 15**) to restructure the PERB. She provided a copy of statutes 2-15-1009 and 19-2-403, MCA (**Exhibit 16**) that the proposal is seeking to amend.

Proponents

06:33:50 Mark Murphy, County Attorneys Association

Opponents

06:37:43 Melanie Symons

Committee questions

06:48:15 SEN. JENT asked Ms. Symons how many active PERS members are in local governments. **Ms. Symons** said there are about 30,000 active PERS members and a little more than 50% of that number work for local governments.

06:50:38 SEN. VAN DYK said that Ms. Wood's proposal seems to be different in terms of it asking for a systematic overhaul. He asked if MACo has had conversations with the Budget Director or with legislators about these fixes. **Ms. Wood** said that to date, PERS and the Governor's Office have not contacted MACo.

06:53:28 Ms. Wood discussed some of the comments that Ms. Symons had made.

• **Sen. Ron Arthun's proposal**

06:58:36 SEN. ARTHUN discussed his proposal (**Exhibit 17**) to implement a cash balance plan for all new hires and allow voluntary enrollment by current public employees.

Proponents - none

Opponents - none

Committee discussion

07:02:48 SEN. LEWIS said that if an employee has an account, the employer's and employee's contribution goes into that account. It is portable.

07:03:30 SEN. LEWIS asked what kind of guaranteed return does the state give.

07:03:34 SEN. ARTHUN discussed Kansas' and Nebraska's plan.

07:04:52 Ms. Scurr discussed the cash balance plan.

07:06:23 REP. BLYTON asked if the 5% in the Kansas' plan would work in Montana.

• **Parameters on introduction of pension legislation - David Niss, Staff Attorney**

07:09:30 Mr. Niss discussed the question by staff as to why there are no statutory requirements that retirement legislation had to be submitted to the State Administration interim committee first.

Committee questions

07:15:54 SEN. LEWIS said that he doesn't like the idea of telling legislators that they cannot submit retirement legislation that they think are important unless they have been approved by SAVA.

07:17:15 REP. BENNETT said he agrees with Sen. Lewis, that that requirement would hamstring the committee's ability to do something.

07:18:54 REP. INGRAHAM said that the committee will not take further action on that issue. She thanked Mr. Niss for bringing this to the committee's attention.

• **Statutes governing rules by the Board of Pardons and Parole**
07:20:44 REP. INGRAHAM deferred that agenda item to tomorrow's meeting.

PUBLIC COMMENT

07:21:15 **Alec Hansen, Montana League of cities and Towns**, commented on the impact to cities and towns if the 1% increase in employee contribution was used.

07:29:36 **Sheryl Wood, Montana Association of Counties**, commented on the different numbers regarding local government's unfunded actuarial liability and the different numbers regarding ARC.

07:36:13 **Bob Bugni, MPERA Board**, commented on his concern about contract rights and the Board considering raising employee contribution 1%.

JOINT SUBCOMMITTEE REPORT

07:39:49 Ms. Scurr discussed a packet of information that was distributed to members of the Joint Subcommittee on pension legislation (**Exhibit 18**):

- Memo from Karl Englund to Eric Feaver regarding contract clause issues and employee contribution rates to TRS
- Cheiron's prepared projections of the funded status of PERS
- Cavanaugh Macdonald's letter regarding the impact of the proposed changes outlined in David Senn's email
- Cavanaugh Macdonald's defined contribution plan proposals
- Pension Fund Fiscal Note 2013 biennium

Committee discussion

07:50:32 SEN. LEWIS said that he wanted to make sure that the committee reviews Attachment A in the last memo, especially the column reflecting 4.5% assumed rate of return.

07:53:10 Ms. Scurr discussed actions that the committee needs to take regarding the retirement system. Ms. Scurr distributed the "Decision Brief" paper.

Motion

07:56:03 SEN. JENT moved that the recommendations of the Joint Subcommittee proceed as bill drafts regarding PERS and TRS and other systems, and that a meeting be scheduled in September to consider those bill drafts. Sen. Jent also requested that the bill drafts be made "By the Request of the Joint Subcommittee". The motion passed unanimously by voice vote.

DECISION BRIEF ON METHODOLOGY FOR ADOPTING A LONG TERM PENSION FUNDING PLAN

07:58:38 Ms. Scurr discussed the document "Decision Brief - Methodology for Adopting a Long-term Pension Funding Plan" (**Exhibit 19**).

- **Step 1: Establish target funding and amortization schedule**

Committee discussion

08:02:21 SEN. LEWIS
08:02:38 REP. INGRAHAM
08:03:09 SEN. ARTHUN
08:04:01 SEN. JENT
08:04:20 Ms. Scurr
08:04:56 SEN. JENT
08:05:00 Sheri
08:06:36 SEN. JENT
08:06:53 REP. INGRAHAM
08:07:35 Ms. Scurr
08:07:40 REP. BENNETT

Motion

08:09:00 REP. BENNETT moved for a target funding up to 107% for the retirement systems by the end of fiscal year 2043.

Committee discussion

08:09:50 Ms. Scurr said that is the second part of Step 1. If you want to be 30 years out from 2013, then it would be 2043. The committee would need to start at a 30-year amortization and extend it to reach the 30-year amortization.

08:11:31 SEN. VAN DYK said he is not sure if there is a motion on table, or if that motion needs to be amended, or if the years of amortization needs to be included.

08:12:18 REP. BENNETT said that he would prefer separate motions.

08:12:33 REP. BLYTON asked if the number, whether it is 100% or 107% or 115%, could be adjusted in the future.

Motion

08:15:26 REP. BENNETT moved to track funding of the retirement systems at 100% and 107%, and at 30 years and 40 years, for comparison purposes. The motion passed by unanimously by voice vote.

- **Step 2: Determine what plan benefit changes you want to be considered when conducting the analysis under Step 3**

Committee discussion

08:17:59 SEN. ARTHUN
08:18:10 REP. INGRAHAM
08:18:15 Ms. Scurr
08:20:12 SEN. JENT
08:21:16 SEN. ARTHUN
08:21:39 Ms. Scurr
08:27:08 REP. INGRAHAM

RECESS

08:28:07 REP. INGRAHAM recessed the meeting at 5:29 p.m.

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