



State Administration and Veterans' Affairs Interim Committee

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59th Montana Legislature

SENATE MEMBERS

KEITH BALES
CAROLYN SQUIRES
BILL TASH
JOSEPH TROPILA

HOUSE MEMBERS

RALPH HEINERT
VERDELL JACKSON
RALPH LENHART
VERONICA SMALL-EASTMAN

COMMITTEE STAFF

DAVE BOHYER, Lead Staff
JOHN MACMASTER, Staff Attorney
FONG HOM, Secretary

MINUTES

Date: June 24, 2005

State Capitol Building
Room 137

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. CAROLYN SQUIRES
SEN. BILL TASH
SEN. JOSEPH TROPILA

REP. RALPH HEINERT
REP. VERDELL JACKSON
REP. RALPH LENHART
REP. VERONICA SMALL-EASTMAN

COMMITTEE MEMBERS EXCUSED

SEN. KEITH BALES

STAFF PRESENT

DAVE BOHYER, Lead Staff
JOHN MACMASTER, Staff Attorney
DAVID NISS, Staff Attorney
CYNTHIA PETERSON, Secretary

Visitors

Visitors' list ([Attachment 1](#))
Agenda ([Attachment 2](#))

COMMITTEE ACTION

The Committee recommend to the Public Employee Retirement Board (PERB) that it include detention officers from all three types of facilities within the purview of the proposed rules.

The Committee adopted the proposed Work Plan and meeting schedule.

The Committee elected Sen. Bill Tash as Chairman of the State Administration and Veterans' Affairs Interim Committee and elected Sen. Joseph Tropila as Vice-Chairman.

CALL TO ORDER; ROLL CALL

Sen. Tash called the meeting to order. Without objection from the Committee, the secretary noted the role ([Attachment 3](#)).

INTRODUCTIONS AND OPENING COMMENTS--Sen. Tash

The members of the State Administration and Veterans' Affairs Interim Committee (SAVA) introduced themselves.

REVIEW OF THE SAVA'S STATUTORY DUTIES AND RESPONSIBILITIES--Dave Bohyer, LSD Research Director

Dave Bohyer reviewed the statutory duties and responsibilities of the SAVA for the 2005-06 interim.

OVERVIEW OF AGENCIES FOR WHICH SAVA HAS STATUTORY MONITORING DUTIES

Sen. Carolyn Squires asked about agencies being "administratively attached," and Mr. Bohyer responded. Sen. Squires asked additional questions, and Mr. Bohyer provided explanations. Sen. Tash provided an explanation of the Committee's role in monitoring the Public Employee Retirement Board's (PERB), and Sen. Squires responded.

- **Department of Administration--Janet Kelly Director**

Janet Kelly, Director of the Department of Administration (DOA), introduced staff and provided an overview of the DOA ([EXHIBIT 1](#)). Director Kelly submitted a two-page overview of the Montana Land Information Act ([EXHIBIT 2](#)) and continued with her presentation.

(Tape 1; Side B)

Rep. Ralph Lenhart asked Tom O'Connell, State Architect, about carrying over money allocated for capital construction projects during a session, and Mr. O'Connell provided an explanation.

Sen. Squires commented to Randy Morris, Administrator, State Personnel Division, about the benefits of increasing long-term nursing staff for retirees, and Mr. Morris responded.

Sen. Joseph Tropila questioned Marvin Eicholtz, Administrator, General Services Division, about funding for grounds maintenance, and Mr. Eicholtz explained the funding for grounds maintenance.

Sen. Tash asked Mr. O'Connell about funded depreciation schedules for new buildings, and Mr. O'Connell explained.

- ▶ **Public Employees' Retirement Administration and Board--Mike O'Connor, Administrator**

Mike O'Connor submitted the Comprehensive Annual Financial Report ([EXHIBIT 3](#)); Montana Public Employees' Retirement Plans; Summary Tables ([EXHIBIT 4](#)); Montana Public Retirement System Member Handbook ([EXHIBIT 5](#)); and Public Employees' Retirement Board Overview ([EXHIBIT 6](#)). Mr. O'Connor gave an overview of the Public Employee's Retirement System (PERS).

Sen. Tropila requested clarification of the PERS e-mail address.

Sen. Squires commented that it is her understanding that PERS is actuarially sound, and Mr. O'Connor explained. Sen. Squires then asked a series of questions regarding PERS staffing and board members. Sen. Squires wanted to know if PERS Board members knew what was to be discussed prior to the PERS Board meetings, and Mr. O'Connor responded, "generally yes."

Sen. Tash inquired about the process for appointing Board members, and Mr. O'Connor explained the process.

Sen. Tash commented about the complexity of the state's several retirement programs.

Sen. Squires expressed her appreciation for assistance provided by Ms. Flatow.

▶ **Teachers' Retirement System and Board--David Senn, Administrator**

David Senn, Administrator, Teacher's Retirement System and Board, provided an overview of the Teachers' Retirement System ([EXHIBIT 7](#)).

(Tape 2; Side A)

Rep. Lenhart inquired about the frequency of having to adjust employer/employee contributions, and Mr. Senn explained past adjustments.

Rep. Ralph Heinert asked about cost-of-living increases and inflation adjustments, and Mr. Senn explained. Rep. Heinert then asked about proceeds from the Lottery, and Mr. Senn explained the use of Lottery proceeds.

▶ **U-System's Optional Retirement Plan--Glen Leavitt, MUS Benefits**

Glen Leavitt, Director of Benefits, Montana University System Benefits, provided an overview of the Optional Retirement Plan (ORP).

There were no questions from the Committee.

COMMISSIONER OF POLITICAL Practices--Gordon Higgins, Commissioner

Gordon Higgins, Commissioner, provided an overview of the Office of Commissioner of Political Practices.

Sen. Squires asked about the simplicity of the on-line filing form, and Mr. Higgins explained how the new on-line system will operate.

Sen. Tropila commented about recent newspaper editorials, and Mr. Higgins expounded.

BOARD OF VETERANS' AFFAIRS AND MVAD--Lt. Col. Joe Foster, Administrator

Joe Foster, Administrator, provided an overview of the Montana Veterans' Affairs Division ([EXHIBIT 8](#)). Mr. Foster submitted a resolution from the National Association of State Directors of Veterans Affairs, Inc., Support National Congressional Charger for National American Indian Veterans, Inc. and their objectives ([EXHIBIT 9](#)).

(Tape 2; Side B)

Lt. Col. Foster thanked Sen. Tropila for his participation on the Board of Veterans' Affairs.

Rep. Lenhart asked about composition of the Board of Veterans' Affairs, and Lt. Col. Foster responded.

Sen. Squires asked about terms of office for Board members, and Lt. Col. Foster responded.

▶ **Other agency subdivisions**

Dan Antonietti, State Legislative Chairman for VFW, addressed the Committee.

Col. Jim Jacobson, Legislative Chairman of the American Legion, addressed the Committee.

LUNCH BREAK

ADMINISTRATIVE RULES REVIEW

- ▶ **Administrative Rules review and Committee's Authority Regarding Rules, in General--David Niss, LSD Staff Attorney**

Mr. Niss reviewed rulemaking and powers of Committees and individual members ([EXHIBIT 10](#)).

Sen. Squires commented on rulemaking authority needed to implement legislation and the responsibility to keep the sponsor of the legislation informed.

- ▶ **Status update on PERS Rules for implementing SB 370; transition of detention officers from the PERS to the SRS--David Niss, LSD Staff Attorney**

Mr. Niss submitted a Notice of Decision on Proposed Rule Action regarding PERS and SRS ([EXHIBIT 11](#)) and discussed the implications of the notice.

Sen. Tash asked about the timeline for receiving ballots, and Mr. Niss responded.

(Tape 3; Side A)

Sen. Squires commented about the ballots and the lack of response from fellow legislators. Sen. Tash responded.

Mr. Niss addressed the value of the poll.

- ▶ **PERS Response--Mike O'Connor, Executive Director**

Mike O'Connor provided PERS's response and reported on the status of negotiations.

Sen. Squires posed a series of questions to Mr. O'Connor, and Mr. O'Connor responded. Sen. Tash intervened and suggested hearing from others. Sen. Squires responded.

Sen. Squires commented on the passage of the legislation (SB 370) and requested an explanation, and Mr. O'Connor commented on the Board's decision.

Rep. Verdell Jackson voiced concern about the fiscal note and asked how including all the detention officers would affect the fiscal note. Mr. O'Connor explained.

Rep. Jackson spoke about the need for sheriffs to retire after twenty years and the criteria needed for detention officers to retire. Mr. O'Connor responded.

- ▶ **PERS Response--Kelly Jenkins, Staff Attorney**

Kelly Jenkins submitted possible amendments to the proposed rules and reviewed the amendments with the Committee ([EXHIBIT 12](#)). Mr. Jenkins explained his position to the Committee.

Rep. Lenhart asked whether, when the rules were drawn up, the rules followed the intent of SB 370, and Mr. Jenkins responded.

Rep. Jackson asked about other laws that should have been tweaked to include detention officers. Mr. Jenkins responded and explained difficulties with the definition of "detention officer."

Rep. Jackson requested clarification on why the House State Administration Committee rejected the amendments. Mr. Jenkins explained.

Rep. Jackson asked if SB 370 would need to be amended if the definition is changed. Mr. Jenkins responded. Rep. Jackson commented on Mr. Jenkins' response.

(Tape 3; Side B)

▶ **Public Comment**

Jim Smith, representing the Montana Sheriffs and Peace Officers, commented on the difficulties experienced.

Don Judge, Teamsters, submitted a list of definitions contained in Section 44-4-302, MCA ([EXHIBIT 13](#)). Mr. Judge also submitted a letter dated June 6, 2005, which he wrote to Mike O'Connor ([EXHIBIT 14](#)).

Representative Mary Caferro provided a legislator's perspective on intent and clarified her intent in passing the legislation.

Don Kinman, AFSCME, requested express language appear in any rule.

Terry Teichrow, former Chairman of the Public Employees' Retirement Board, provided testimony to the Committee.

▶ **Committee discussion and action**

Sen. Squires asked questions of Mr. O'Connor about the fiscal note on SB 370 and the fiscal impact to the state, and Mr. O'Connor responded.

Sen. Squires asked C. B. Corneliusen, Undersheriff for Cascade County, about the fiscal impact when detention officers were included in Cascade County. Undersheriff Corneliusen responded.

At the request of Sen. Squires, Mr. Niss commented.

Rep. Jackson asked about the fiscal impact, and Mr. Niss stated he did not have the information.

Sen. Squires asked David Ewer, Governor's Budget Director, for an explanation on the fiscal impact. Mr. Ewer responded and explained his position regarding the fiscal note.

Sen. Tropila commented on rulemaking.

(Tape 4; Side A)

BREAK

Sen. Squires MOVED the Committee write to the PERB and recommend it include all detention officers from all three types of facilities within the purview of the PERB's proposed rules.

Mr. Niss explained the ability of the Committee to direct the agency versus making recommendations.

Sen. Squires' motion carried unanimously.

Public Comment

Frank Cole, retired Assistant Chief, Missoula Police Department, addressed the Committee about his problems with the PERS. Sen. Tash offered suggestions to Mr. Cole, and suggested Mr. Cole submit information to the Committee for review.

Sen. Squires requested bill information, and Mr. Cole responded. Sen. Squires offered to further assistance to Mr. Cole.

Pat Callbeck Harper submitted written testimony on the draft HJR 42 Work Plan ([EXHIBIT 15](#)).

Charlotte Thomas, Montana Retired Teachers, testified in support of HJR 42.

PROPOSED WORK SCHEDULE AND HJR 42 STUDY PLAN--Staff presentation; Committee discussion and Executive Session.

▶ **Review, revise, and adopt the meeting schedule**

Rep. Small-Eastman inquired about the meeting dates, page 14, and Mr. Bohyer reviewed the proposed meeting schedule and work plan ([EXHIBIT 16](#)). The Committee discussed the tentative dates proposed in Exhibit 16. After discussion, the Committee agreed to change the September 2 date to September 9, and to change the December date to November.

It was MOVED the Committee adopt the tentative meeting schedule as revised by the Committee. The motion carried unanimously.

▶ **Review, revise, and adopt the study plan for HJR 42**

Mr. Bohyer continued reviewing the Work Plan.

(Tape 4; Side B)

Rep. Jackson requested a notebook be prepared for HJR 42 to be used for organizational purposes.

▶ **Public Comment**

David Ewer, Budget Director, Governor's Office on Budget and Program Planning, spoke about HJR 42.

Terry Moore, Chairman of the Board of Investments, addressed the Committee.

Sen. Squires moved to adopt the tentative work plan and meeting schedule. The motion carried unanimously.

OTHER BUSINESS

▶ **Instructions to staff**

Mr. Bohyer addressed the Committee about rule review by staff for the remainder of the interim.

▶ **Elect officers**

Rep. Lenhart nominated Rep. Tash as Chairman. The motion carried unanimously.

Rep. Lenhart nominated Sen. Tropila as Vice-Chairman. The motion carried unanimously.

There being no further business to come before the Committee, the meeting adjourned.