



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 9, 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 committee approved the Office of the Secretary of State's proposed legislation for bill drafting purposes.
- The committee retained the following advisory councils: the State Employee Group Benefits Advisory Council, the Capitol Complex Advisory Council, the Electronic Government Advisory Council, the Information Technology Board, the 911 Advisory Council, the Land Information Advisory Council, and the Employee Investment Advisory Council.
- The committee retained the following advisory council reports: the Electronic Government Advisory Council Report, the Information Technology Report, and the Montana Land Information Report.
- The committee decided that the Capitol Complex Advisory Council Report, the Employee Incentive Program Report, and the Uniform Commercial Code Secured Transactions Report be given to the SAVA committee by September 15 in the year preceding the session and if there are no changes to the Code, then a presentation is not necessary.
- The committee approved adding the language of 19-2-405(5), MCA to the experience study of the Teachers' Retirement System.
- The committee approved adding language to 19-2-405(2) that the actuaries provide copies of the Annual Report - CAFR to the Legislature.
- The committee approved the staff's recommendation to require the Board of Investments' report be provided to SAVA before September 15 of the year preceding a legislative session.
- The committee approved LCsa04 for preintroduction purposes with Sen. Arthun as sponsor of the bill.
- The committee approved a motion that the funding analysis of TRS to not include benefit changes.
- The committee approved amending a previous motion (track funding of the retirement systems at 100% and 107%, both for 30 years and for 40 years, and compare both) to track funding at 100% only but for 30 years and for 40 years for comparison purposes.

CALL TO ORDER AND ROLL CALL

00:00:01 REP. INGRAHAM reconvened the meeting at 8:00 a.m. The secretary called roll.

00:02:00 Sheri Scurr gave an overview of the agenda and meeting materials.

AGENDA

HB 142 - REVIEW OF STATUTORY ADVISORY COUNCILS AND REPORTS

- **Staff Overview**
00:04:42 Ms. Scurrs gave a brief overview of HB 142. She said that the Land Information Advisory Council is on page 14 of the document "HB 142 - Review of Statutory Advisory Councils and Reports (**Exhibit 20**).
- **Land Information Advisory Council - Jennie Stapp, State Librarian**

00:05:58 Ms. Stapp gave a presentation of the Montana Land Information Act, the Montana Land Information Advisory Council (MLIAC), and recent changes that have occurred within state government to better collect and disseminate land or geographical information. She distributed a copy of 90-1-404, MCA, the statute that governs the Land Information (**Exhibit 21**).

Committee questions

00:18:35 SEN. VAN DYK asked who administers the Cadastral System. **Ms. Stapp** said that the data comes through the Department of Revenue, the State Library, and the staff who manages the Cadastral application.

00:19:24 **Stu Kirkpatrick, State GIS Coordinator**, said the Montana Cadastral database that is integrated by the eight largest counties in Montana have their own GIS and data from those counties come through the Department of Revenue. That data is published in a variety of forms, one being the Cadastral website.

00:20:23 SEN. VAN DYK said that one of the things that he can't tell is which properties are in what management for recreational purposes. He asked if there was a layer for that type of data. **Mr. Kirkpatrick** said that the data in the Block Management Program is collected by Fish, Wildlife, and Parks, and is available through the FWP Hunt Planner.

00:22:09 REP. INGRAHAM asked if a certain percentage of the \$.75 is set aside for grants. **Ms. Stapp** said that there is nothing in Administrative Rule that requires a certain percentage to be set aside. What is in Administrative Rule is an amount of funds for coordination dollars that staff the Council's travel and the remaining funds are decided through the Land Plan Process.

00:22:51 REP. INGRAHAM asked about the grant process that is occurring in bigger areas. **Ms. Stepp** said that there is a map in her handout that shows the areas of the state that have received those funds.

PUBLIC COMMENT - none

00:26:45 REP. INGRAHAM said the the committee will not take action on the Land Information Advisory Council until later.

- **Uniform Commercial Code Secured Transaction Report - Jorge Quintana, Legal Counsel, Secretary of State's Office**

00:28:15 Mr. Quintana distributed information on the Uniform Commercial Code - Secured Transactions Act, and discussed the changes in Administrative Rules and the one statutory difference from the Uniform Commercial Code (**Exhibit 22**). He said that there have been no changes in the previous two years.

Committee questions

00:32:11 REP. INGRAHAM suggested that a more comprehensive report related to the Board's duties might be more helpful in understanding how the UCC works.

PUBLIC COMMENT - none

BREAK - reconvened at 8:43 a.m.

- **Secretary of State Legislative Proposals - Kathy Bramer, Chief of Staff, Deputy Secretary of State, Office of the Secretary of State**

00:43:22 Ms. Bramer discussed the Secretary of State's legislative proposals (**Exhibit 23**). She introduced Lisa Chemet, Deputy for the Elections in Government Services Division, Office of the Secretary of State.

Committee questions

00:47:19 REP. INGRAHAM asked Ms. Chemet how changing the calendar year to the election year affect the election process. **Ms. Chemet** said that when the Secretary of State's Office revised its military and overseas voting laws, they made the law (SB 55) consistent with the Federal MOV Act.

PUBLIC COMMENT - none

Motion

00:50:40 REP. BENNETT moved to approve the Office of the Secretary of State's proposed legislation for bill drafting purposes. The motion passed unanimously by voice vote.

FINAL REVIEW AND ACTION ON STATUTORY ADVISORY COUNCILS AND REPORTS

- **Staff review**

00:52:48 Ms. Scurr gave an overview of HB 142 - Review of Statutory Advisory Councils and Reports (**Exhibit 20**). She discussed the significance of 5-11-210, MCA (**Exhibit 24**).

STATUTORY ADVISORY COUNCILS

- **Department of Administration**

00:57:38 State Employee Group Benefits Advisory Council (2-15-1016, MCA)
Without objection from the committee, this Advisory Council will be retained.

00:58:39 Capitol Complex Advisory Council (2-17-803, MCA)
Without objection from the committee, this Advisory Council will be retained.

00:59:22 Electronic Government Advisory Council (2-17-1105, MCA)
Without objection from the committee, this Advisory Council will be retained.

00:59:57 Information Technology Board (2-15-1021, MCA)
Without objection from the committee, this Board will be retained.

01:00:42 911 Advisory Council (10-4-102(2), MCA)
Without objection from the committee, this Advisory Council will be retained.

01:01:23 Land Information Advisory Council (90-1-405, MCA)

Without objection from the committee, this Advisory Council will be retained.

- **Public Employees' Retirement Board**
01:01:53 Employee Investment Advisory Council (19-3-2133, MCA)
Without objection from the committee, this Advisory Council will be retained.

STATUTORY REPORTS

- **Department of Administration**
01:05:47 Capitol Complex Advisory Council Report (2-17-804(3), MCA)

Motion
01:09:57 SEN. VAN DYK moved that the Department of Administration provide to the SAVA Committee, the Capitol Complex Advisory Council Report, before the September 15 deadline. The motion passed unanimously by voice vote.

01:11:06 Electronic Government Advisory Council Report (2-17-1105(2)(f), MCA)
Without objection from the committee, this Report will be retained.

01:11:48 Employee Incentive Program Report (2-18-1103(3), MCA)

Motion
01:13:33 REP. BLYTON moved that the Department of Administration give a presentation on the Employee Incentive Program to the SAVA by September 15 in the year preceding the session. The motion passed unanimously by voice vote.

01:14:58 Information Technology Report (2-17-512(1)(x) and 2-17-515, MCA)
Without objection from the committee, this Report will be retained.

01:15:53 Montana Land Information Report (9-1-404(1), MCA)
Without objection from the committee, this Report will be retained.
- **Board of Veteran's Affairs**
01:17:58 Biennial Report (10-2-102(1)(i), MCA)
Ms. Scurr said that action on this was taken earlier.
- **Secretary of State's Office**
01:18:42 Uniform Commercial Code Secured Transactions Report (30-9A-527)

Motion
01:19:11 SEN. VAN DYK moved to require that the Report be given to the SAVA committee by September 15 in the year preceding the session.

Amended Motion
01:20:33 SEN. VAN DYK amended his motion to include, that if no statutory changes have been made to the Uniform Commercial Code, then a report to the SAVA committee is not necessary.

01:22:52 The motion passed unanimously by voice vote.

- **Teachers' Retirement Board**

01:23:33 Annual Report - CAFR (5-11-120(11), 19-20-201(1)(d) and (4), MCA)

01:25:47 Actuarial valuation of TRS

01:26:27 Experience study of TRS

Motion

01:30:21 REP. BENNETT moved to add the language of 19-2-405(5) to the experience study of TRS, "The board shall require the actuary to conduct a periodic actuarial investigation into the actuarial experience of the retirement systems and plans, with copies of the report provided to the legislature pursuant to 5-11-210, MCA." The motion passed unanimously by voice vote.

- **Public Employees' Retirement Board**

01:31:48 Annual Report - CAFR (19-2-407, MCA)

01:32:07 Actuarial valuation of each system administered by MPERA (19-2-405, MCA)

Motion

01:32:48 SEN. VAN DYK moved to add language to 19-2-405(2), that the actuaries provide copies of the report to the legislature. The motion passed unanimously by voice vote.

- **Board of Investments**

01:33:05 Report on retirement system trust fund investments and benefits (17-6-230, MCA)

Motion

01:34:25 SEN. VAN DYK moved to accept staff's recommendation to require the Board of Investments' report be provided to the SAVA committee before September 15 of the year preceding a legislative session. The motion passed unanimously by voice vote.

Committee discussion

01:36:24 REP. INGRAHAM discussed eliminating the requirement under (1)(d) for comparison with other states or the request that the Board's report comply. She said that she doesn't recall if that is in the report.

01:36:46 Ms. Scurr said that she received a message from David Ewer, Executive Director of the Board of Investments. This comparison is not in the book report but it is done and there is a link on the webpage that has those comparisons.

01:36:55 REP. INGRAHAM said that the committee would not have to take action.

01:37:00 Ms. Scurr said that the tasks have been completed. She suggested putting all of these into one bill draft.

01:37:10 REP. INGRAHAM appointed Sen. Van Dyk as sponsor.

REVIEW OF BILL DRAFTS

- **LCsa01: Ethics violations in the office of commissioner of political practices**
01:38:23 Ms. Scurr discussed LCsa01 (**Exhibit 25**).

- **Commissioner of Political Practices' comments**
01:38:58 **Julie Steib, Investigator**, commented on the new subsection (4) regarding the Commissioner's recusal when a complaint is filed against the commissioner. She also commented on subsection (6), the entering into a contract for those services with a deputy or a hearing examiner when there is a complaint against the commissioner.

01:40:56 REP. INGRAHAM asked if that is the section of law where there is a conflict when the commissioner is involved in appointments.

01:41:03 Ms. Steib discussed subsection (5), if the commissioner is recused, the commissioner shall appoint a deputy.

01:42:03 **Mary Baker, Program Supervisor**, said that some of the questions regarding the commissioner's position is how that exempt employee is defined. She asked for additional language that would clarify that the commissioner is required to abide by the policies of the agency; i.e., telework and the requirement of employees to disclose what they worked on for timekeeping purposes.

PUBLIC COMMENT - none

Committee questions
01:45:06 SEN. VAN DYK asked if the Office of the Commissioner of Political Practices was planning on getting some specific language, recommendations, or changes to this draft.

01:45:43 Ms. Baker said they would be happy to help with language.

01:45:46 REP. INGRAHAM said she would like Mr. Niss to help as well.

- **LCsa04: Specify that an agency rule adopted by reference may not be changed by the agency - David Niss, Staff Attorney**
01:47:15 Mr. Niss explained the intent of LCsa04 (**Exhibit 26**).

Motion
01:50:14 SEN. VAN DYK moved to proceed with LCsa04 with the changes as recommended by Mr. Niss for purposes of preintroduction. The motion passed unanimously by voice vote.

Sen. Arthun will sponsor the bill.

LEGISLATIVE REVIEW OF RULES OF BOARD OF PARDONS AND PAROLE

- 01:52:09 Mr. Niss discussed the memo to the Law and Justice Interim Committee regarding the review of rules of the Board of Pardons and Parole (**Exhibit 27**). He said that the reason the SAVA committee was copied on that memo was because SAVA monitors the Secretary of State's Office which is the publisher of the Administrative Rules of Montana.
- 01:55:14 SEN. JENT said that the Board of Pardons and Parole has discretion, both in the statute and the appellate law, about whether to grant or deny parole. He supports having more control over what the Board is doing and what rules they are publishing.
- 01:56:19 Mr. Niss commented further on the issue.

PUBLIC COMMENT ON ANY TOPIC - none

BREAK - reconvened at 10:13 a.m.

NEXT MEETING DATE

- 02:12:43 The committee discussed setting a meeting date in September. SEN. JENT suggested meeting on Tuesday, September 11, 2012.

DECISION BRIEF FOR LONG TERM PENSION FUNDING PLAN (Exhibit 19)

- 02:20:52 Ms. Scurr said that Decision #1 has already been discussed.
- **Decision #2: What benefit or plan design changes does SAVA wish to have considered, if any, in the actuarial analysis under Step 3**
- Committee discussion
- 02:22:35 SEN. JENT asked if a bill draft is required.
- 02:23:29 Ms. Scurr said you could do the funding without changing benefit structures.
- 02:25:12 SEN. LEWIS commented on the layout of the spreadsheet that was presented by Ms. Scurr.

PUBLIC COMMENT

- 02:26:32 **David Senn, Executive Director, Teachers' Retirement System**, agreed with Sen. Lewis. He proposed that they work through the subcommittee's recommendations for a bill draft.

Motion

02:29:52 SEN. VAN DYK moved that the funding analysis do not include benefit changes. The motion passed unanimously by voice vote.

- **Decision #3: How would SAVA like to approach the actuarial analysis required to determine the RAF and the target funded ratio for the amortization schedule adopted under Decision Point 1.**

Committee discussion

02:31:42 Mr. Senn discussed the cost estimate that the actuaries had prepared. He recommended a stress analysis be done.

02:33:46 REP. INGRAHAM said that there was a motion yesterday to look at going at the 100% and the 107%. She asked if Mr. Senn thought that the committee should concentrate on the 100% at this point for the 30 and 40 years, get to that point, and then rely what the reserves are.

02:34:19 Mr. Senn said he recommends sticking with 100% funding over a 30-year period.

02:35:31 SEN. JENT said the committee should modify its previous decision to change the 107% funding to 100% funding.

02:35:59 REP. INGRAHAM said that the committee did have the 100%, and in that same motion, there was the 30-year and the 40-year, keeping the 40-year and eliminating the 107%.

02:36:11 SEN. LEWIS asked if Sen. Jent's motion precludes TRS' calculations on what reserves they would need to handle another 2008-2009 market crash.

02:36:33 SEN. JENT said that it might. He said that he wanted to concentrate on the 100% and hear what TRS has to say about reserves.

02:36:55 SEN. ARTHUN said that it would be difficult to come up with 100% funding from the Legislature.

02:37:07 Mr. Senn clarified that TRS will not be calculating the reserves until after the next legislative session.

Motion

02:37:39 REP. INGRAHAM said that there is a motion on the table to amend a motion from yesterday to have 100% actuary funding over a 30-year period and over a 40-year period.

02:37:44 The motion passed with Sen. Lewis voting no.

- **Committee Discussion**

02:38:36 Ms. Scurr said that she would like the committee to think of funding sources and be prepared for a discussion at the September meeting.

02:45:47 REP. INGRAHAM discussed scheduling a time for Kathy McGowan to give a

presentation on proposed legislation for the Sheriff's Retirement System at the next meeting.

02:46:11 Ms. Scurr said that she will talk with Ms. McGowan and the Montana Sheriffs and Peace Officers Association regarding any proposed legislation that they might have.

ADJOURNMENT

02:47:12 With no further business before the committee, REP. INGRAHAM adjourned the meeting at 10:47 a.m.

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