



State Administration and Veterans' Affairs Interim Committee
63rd Montana Legislature

SENATE MEMBERS

DEE BROWN--Chair
LARRY JENT
DAVE LEWIS
SUE MALEK

HOUSE MEMBERS

BRYCE BENNETT--Vice Chair
JOANNE BLYTON
DOUG KARY
KATHY SWANSON

COMMITTEE STAFF

SHERI SCURR, Lead Staff
GINGER ALDRICH, Staff Attorney

MINUTES LOG

October 21, 2013

Room 102, State Capitol
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.

Access to an electronic copy of these minutes and the audio or video recording is provided from the Legislative Branch home page at <http://leg.mt.gov>. On the left-side menu of the home page, select *Committees*, then *Interim*. Once on the page for *Interim Committees*, scroll down to the appropriate committee. The written minutes summary, along with the audio and video recordings, are listed by meeting date on the interim committee's web page.

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

SEN. DEE BROWN, Chair
REP. BRYCE BENNETT, Vice Chair

SEN. LARRY JENT
SEN. DAVE LEWIS
SEN. SUE MALEK

REP. JOANNE BLYTON
REP. DOUG KARY

COMMITTEE MEMBERS EXCUSED

REP. KATHY SWANSON

STAFF PRESENT

SHERI SCURR, Lead Staff
GINGER ALDRICH, Staff Attorney
NADINE SPENCER, Secretary

AGENDA & VISITORS' LIST

Agenda ([Attachment 1](#)).

Visitors' list ([Attachment 2](#)).

COMMITTEE ACTION

! Voted 7-1 to continue the SJR 14 subcommittee on combining elections, but to have the subcommittee focus on election law cleanup.

AGENDA ITEM #1: CALL TO ORDER AND ROLL CALL

00:00:00 **SEN. DEE BROWN** called the meeting to order at 9:00 AM. The secretary took the role ([Attachment 3](#)).

00:00:50 **Ms. Sheri Scurr**, Lead Staff, Legislative Services Division (LSD), reviewed the agenda and materials for the meeting.

00:03:11 SEN. BROWN

AGENDA ITEM #2: HJR 1 - STUDY OF OFFICE OF THE COMMISSIONER OF POLITICAL PRACTICES

00:03:28 **Mr. Jonathan Motl**, Commissioner of Political Practices, COPP, introduced the presentation on staff duties related to campaign reporting and campaign filing and how complaints are handled ([Exhibit 1](#)).

00:08:21 SEN. BROWN

00:08:35 Mr. Motl

00:09:18 **Ms. Mary Baker**, Program Supervisor, COPP, began the PowerPoint presentation on office structure and staff responsibilities ([Exhibit 2](#)).

00:11:34 **Ms. Karen Musgrave**, Program Technician, COPP, gave a description of her job responsibilities and an overview of the scan process and how to locate scanned documents on the COPP website.

00:20:38 SEN. BROWN

00:21:51 Ms. Baker explained the process of certifying candidates before they are put on the ballot for election and discussed the procedures for filing reports ([Exhibit 3](#)) and guidelines for reviewing campaign finance reports ([Exhibit 4](#)).

00:27:34 **Ms. Kym Trujillo**, Data Technician, COPP, gave a description of her job responsibilities and demonstrated the COPP website.

00:34:48 **REP. BRYCE BENNETT**

00:35:16 Ms. Baker

00:36:30 REP. BENNETT

00:36:51 Ms. Baker

00:37:13 Ms. Baker discussed the COPP authority over ethics, lobbyists and principals.

00:42:39 Ms. Trujillo explained the lobbyist and principal search.

- 00:46:14 Ms. Baker discussed other duties that are performed by the COPP and provided a calendar of online service projects ([Exhibit 5](#)).
- 00:50:15 **SEN. SUE MALEK**
- 00:50:37 Ms. Trujillo
- 00:51:55 SEN. BROWN
- 00:53:24 Mr. Motl explained how complaints are handled by COPP and gave a history of the number of complaints filed and the number of decisions, dismissals and withdrawals that have been handled by each commissioner ([Exhibit 6](#)).
- 01:21:07 SEN. BROWN
- 01:21:43 **Ms. Julie Steab**, Investigator, COPP, gave a description of her job responsibilities and discussed how complaints are investigated.
- 01:24:30 SEN. BROWN
- 01:24:39 Ms. Steab
- 01:24:48 **Ms. Jaime MacNaughton**, Legal Counsel, COPP, described the steps taken when a violation in campaign practices is filed and discussed pending cases ([Exhibit 7](#)).

Committee Questions and Discussion

- 01:29:36 SEN. BROWN asked Ms. MacNaughton about her experience in civil litigation.
- 01:29:56 Ms. MacNaughton
- 01:30:18 SEN. BROWN asked several questions about the legal counsel position.
- 01:32:35 Mr. Motl
- 01:34:40 REP. BENNETT asked if there is any cost savings by having an attorney on staff.
- 01:35:01 Mr. Motl
- 01:37:21 SEN. BROWN
- 01:37:38 Mr. Motl
- 01:37:43 **REP. DOUG KARY**, referring to the packet of materials provided by the COPP concerning the agency's contracts ([Exhibit 8](#)), asked about the contract amount for Stoneriver under contract #06-1263B.
- 01:38:28 Mr. Motl
- 01:38:54 SEN. BROWN
- 01:39:10 Ms. Baker
- 01:39:18 REP. KARY
- 01:39:59 Ms. Baker
- 01:40:17 REP. KARY
- 01:40:27 **REP. JOANNE BLYTON** asked about the hiring process for the legal counsel position.
- 01:41:02 Mr. Motl
- 01:44:05 SEN. MALEK asked about the new organizational structure of COPP and if it is necessary for the commissioner to have a law degree.
- 01:45:12 Mr. Motl
- 01:46:58 **SEN. LARRY JENT** asked about Bonogofsky v. Kennedy and the statutory power of the commissioner.
- 01:53:20 Mr. Motl
- 01:54:01 SEN. BROWN
- 01:54:10 REP. KARY asked how the commissioner defines and determines fair market value.

01:56:44 Mr. Motl
01:57:15 SEN. MALEK asked if the COPP has any recourse if they do not take action against a complaint.
01:58:09 Mr. Motl
01:58:37 SEN. BROWN asked Mr. Motl if he was involved in any decision, dismissal or withdrawals to the commissioners office while he was working as an attorney in Helena.
02:01:37 Mr. Motl
02:02:09 SEN. BROWN

Public Comment

02:02:58 **Sen. Jeff Essmann** said that it is important to take into consideration what the U.S. Supreme Court has established in regards to finance regulation.
02:10:52 SEN. MALEK
02:11:06 Sen. Essmann
02:11:36 SEN. MALEK
02:12:00 SEN. BROWN
02:12:20 Sen. Essmann

02:12:52 **Mr. Jim Brown**, Attorney, Dillon, Montana, commented on ways that the commissioners office should be reformed.
02:18:51 SEN. BROWN
02:18:58 Mr. Brown
02:22:56 SEN. BROWN

Staff Research Report

02:23:56 Ms. Scurr reviewed the legislative research brief ([Exhibit 9](#)) and the survey data on how other states select the entities that enforce campaign finance law, ethics and lobbying.
02:31:15 SEN. BROWN
02:31:32 Ms. Scurr

02:31:47 Ms. Scurr reviewed the 50-state survey draft (see attachment D, Exhibit 9) on campaign practices, lobbyist activities and ethics and asked for comments and suggestions from the committee beginning with Part 1 of the survey.
02:36:51 REP. KARY
02:37:17 SEN. BROWN
02:37:22 Ms. Scurr
02:37:34 SEN. MALEK
02:37:54 Ms. Scurr

02:38:40 Ms. Scurr noted committee changes to the survey and continued to question 4.
02:40:02 REP. KARY
02:40:09 Ms. Scurr
02:40:20 Sen. Essmann
02:42:50 SEN. MALEK
02:44:14 Ms. Scurr
02:44:44 SEN. MALEK

02:44:57 Ms. Scurr
02:47:34 SEN. BROWN

02:48:13 Ms. Scurr noted committee changes to the survey and continued to questions 5-6.
02:49:40 REP. KARY
02:50:06 Ms. Scurr
02:50:18 REP. KARY
02:50:25 Ms. Scurr
02:51:17 SEN. BROWN

02:51:21 Ms. Scurr noted committee changes to the survey and continued to questions 7-10.
02:53:01 REP. BLYTON
02:53:08 SEN. BROWN
02:53:12 Ms. Scurr
02:53:19 SEN. BROWN
02:53:21 SEN. LEWIS
02:54:02 SEN. BROWN

02:54:09 Ms. Scurr noted committee changes to the survey and continued to question 11.
02:55:48 SEN. BROWN
02:55:53 REP. BENNETT

02:56:17 Ms. Scurr asked if there were any other changes to Part 1.
02:56:26 SEN. BROWN
02:56:44 REP. BENNETT
02:57:28 SEN. BROWN
02:57:37 REP. BENNETT
02:57:55 SEN. BROWN
02:58:12 REP. BENNETT
02:58:39 SEN. BROWN
02:59:04 Ms. Scurr
02:59:41 REP. BENNETT
02:59:58 Ms. Scurr
03:00:08 REP. BENNETT
03:00:59 SEN. BROWN
03:01:07 Ms. Scurr
03:01:21 REP. KARY asked if there is a national organization on ethics.
03:02:02 Mr. Motl
03:02:19 REP. BENNETT
03:02:25 SEN. BROWN

03:02:32 Ms. Scurr said that she will incorporate the changes that have been made by the committee on Part 1, into Part 2, lobbyist activities, and Part 3, ethics.
03:03:16 SEN. BROWN
03:03:38 SEN. LEWIS
03:04:27 Ms. Scurr
03:04:40 SEN. BROWN

03:04:57 Ms. Scurr asked the committee members for their suggestions on the stakeholders they want present at the roundtable discussion on the COPP.
03:06:31 SEN. BROWN
03:06:35 Ms. Scurr
03:07:10 REP. KARY
03:07:32 Ms. Scurr
03:07:47 REP. BENNETT
03:08:05 SEN. BROWN

03:08:51 BREAK

04:01:53 SEN. BROWN called the meeting back to order at 1:04 PM. She read a letter from Gary Buchanan, Billings, Montana ([Exhibit 10](#)), expressing his views on recent actuarial assumptions set by the Montana Public Employees Retirement Board (PERB) for the public employee retirement plans.

AGENDA ITEM #3: PENSION OVERSIGHT

04:05:35 **Mr. David Ewer**, Executive Director, Montana Board of Investments (MBOI), introduced Mr. Cliff Sheets, Chief Investment Officer, MBOI.
04:06:43 **Mr. Cliff Sheets**, MBOI, provided an update on the Montana Public Employee Retirement System (PERS) and TRS pension plans ([Exhibit 11](#)).
04:09:47 SEN. LEWIS
04:10:09 SEN. BROWN

04:10:22 SEN. MALEK gave her comments on the PERB meeting she attended on October 10.

04:14:47 SEN. LEWIS also attended the PERB meeting and provided his comments.

Committee Questions and Discussion

04:20:47 SEN. BROWN asked Ms. Scurr to comment on past history for the MBOI.
04:21:14 Ms. Scurr
04:23:06 SEN. BROWN
04:23:14 Ms. Scurr
04:23:38 SEN. MALEK asked about the role of the MBOI on the rate of return.
04:23:56 Mr. Ewer
04:27:57 SEN. BROWN asked about the sustainability of the current rate of return.
04:28:35 Mr. Ewer
04:29:34 SEN. BROWN
04:29:56 Mr. Sheets
04:35:50 SEN. BROWN asked what difference was made when the rate of return assumption was changed from 7.75% to 7.5%
04:36:29 Mr. Sheets
04:37:17 SEN. LEWIS

- 04:37:38 SEN. BROWN presented **Mr. David Senn**, Executive Director, TRS, with a certificate of appreciation for his service to the State of Montana and the Montana Legislature.
- 04:40:15 Mr. Senn

AGENDA ITEM #4: PENSION OVERSIGHT - ACTUARIAL REPORTS

- 04:41:31 Mr. Senn discussed the actuarial valuation for TRS and the investment return assumption (**Exhibit 12**).

Committee Questions and Discussion

- 04:53:41 SEN. BROWN asked about the numbers used for the charts on page 3 (see exhibit 12).
- 04:56:03 Mr. Senn
- 04:56:46 SEN. BROWN asked about the information being provided on slide 10 and the TRS pension lawsuit over changes to the Guaranteed Annual Benefit Adjustment (GABA).
- 04:57:02 Mr. Senn
- 04:57:39 SEN. LEWIS asked what would happen to the amortization period, on slide 10, if earnings were at 7.5%.
- 04:58:08 Mr. Senn
- 04:58:35 SEN. BROWN
- 04:58:52 Mr. Senn introduced **Mr. Shawn Graham**, incoming Executive Director, TRS.
- 04:59:14 Mr. Graham
- 04:59:45 SEN BROWN
- 04:59:51 Mr. Graham
- 05:00:30 SEN. BROWN
- 05:00:58 SEN. LEWIS commented on the TRS Board meeting he attended on September 27.
- 05:02:49 **Ms. Roxanne Minnehan**, Executive Director, Montana Public Employees' Retirement Administration (PERA), discussed the actuarial valuation for the retirement plans that are administered by the PERB (**Exhibit 13**).

Committee Questions and Discussion

- 05:20:23 SEN. BROWN asked why bills were not introduced during the 2013 legislative session to fix the problems with the sheriff and game warden retirement systems.
- 05:20:41 Ms. Minnehan
- 05:21:05 SEN. MALEK asked when the extra employer and employee contributions would end for PERS.
- 05:23:50 Ms. Minnehan
- 05:24:34 SEN. MALEK asked if a stay were put on the PERB's ability to reduce the GABA when it might happen.
- 05:24:54 Ms. Minnehan
- 05:25:10 REP. BENNETT asked about the GABA lawsuit and the impact on the PERS plan.
- 05:25:36 Ms. Minnehan
- 05:25:56 SEN. LEWIS asked who should be responsible for estimating investment returns.
- 05:26:10 Ms. Minnehan

05:30:06 SEN. LEWIS asked about the impact to the fund if the GABA was rolled back to 43.7%.

05:30:50 Ms. Minnehan

05:31:04 SEN. BROWN asked if any of the members of PERB are actuaries.

05:31:56 Ms. Minnehan

05:32:45 SEN. BROWN asked who voted to decrease the rate of return assumption to 7.5%.

05:32:06 Ms. Minnehan

05:32:55 SEN. BROWN asked what the process would be to obtain emails and other communication between PERB members at the September 12 meeting.

05:33:32 Ms. Scurr

05:34:04 SEN. BROWN clarified why she was asking for the information.

05:34:33 SEN. LEWIS said that emails are public information.

05:35:11 SEN. BROWN

05:35:24 SEN. MALEK asked about the National Association of State Retirement Administrators (NASRA).

05:36:17 Ms. Minnehan

05:36:40 SEN. MALEK commented on the expected rate of return.

05:38:09 SEN. BROWN

05:38:22 SEN. LEWIS referenced the actuary's comments on risk associated with the rate of return assumption.

05:38:55 Ms. Scurr summarized SEN. BROWN's request for information from the PERB meeting on September 12 to include all communication concerning whether to keep a 7.75% rate of return assumption or to lower the assumption to 7.5% as discussed by the PERB actuary during the presentation on the Economic Experience Study (see time stamp 06:24:56)

05:39:36 SEN. BROWN

05:40:26 BREAK

05:59:15 SEN. BROWN called the meeting back to order at 3:00 PM.

AGENDA ITEM #5: SJR 14 - COMBINING PRIMARY AND SCHOOL ELECTIONS

05:59:39 REP. BENNETT gave a report on the September 18 subcommittee meeting on SJR 14, combining primary and school elections ([Exhibit 14](#)).

06:05:01 Ms. Scurr discussed the even and odd year election time-lines ([Exhibit 15](#)).

Committee Questions and Discussion

06:09:53 REP. BENNETT

06:10:23 SEN. BROWN

06:10:38 REP. BENNETT

06:11:37 SEN. BROWN

06:11:55 REP. KARY

06:12:22 REP. BENNETT

06:13:06 REP. BROWN

06:13:14 REP. BLYTON

06:14:59 SEN. MALEK

06:15:16 REP. BLYTON
06:15:57 SEN. MALEK
06:20:28 REP. BENNETT
06:21:15 SEN. BROWN

06:21:53 **Motion:** SEN. LEWIS moved to continue the SJR 14 subcommittee on combining elections so it can move forward on cleaning up election laws.

06:22:30 SEN. BROWN

Public Comment

06:22:52 **Ms. Shantil Siaperas**, Montana Association of Counties

06:23:26 **Ms. Nicole Thuotte**, Office of Public Instruction

06:23:59 SEN. BROWN

06:24:06 **Vote:** The motion carried 7-1 by voice vote with Sen. Swanson voting no by proxy.

06:24:56 SEN. BROWN explained that her request for copies of communication to or from board members at the September 12 PERB meeting was a personal request and not a request made on behalf of SAVA and that her request included email and text messages.

AGENDA ITEM #6: RULE REVIEW ACTIVITY

06:26:01 **Ms. Ginger Aldrich**, Staff Attorney, discussed recent rule review activity and explained how to access the information on the legislative website.

06:28:56 SEN. BROWN

AGENDA ITEM #7: UPDATE ON OTHER LEGISLATIVE STUDIES OF INTEREST

06:29:37 Ms. Scurr

06:29:58 **Ms. Kris Wilkinson**, Legislative Fiscal Division (LFD), gave an update on HJR 17, pay plan study.

06:33:04 SEN BROWN

06:33:13 Ms. Wilkinson

AGENDA ITEM #6: RULE REVIEW ACTIVITY (continued)

06:34:27 Ms. Aldrich continued the discussion on rule review activity.

06:39:52 SEN. BROWN

AGENDA ITEM #7: UPDATE ON OTHER LEGISLATIVE STUDIES OF INTEREST (continued)

06:40:55 **Mr. Pad McCracken**, LSD, gave an update on HJR 2, electronic records study.

06:43:07 **Mr. Dave Bohyer**, LSD, gave an update on HJR 30, inventory of veterans' benefits.

AGENDA ITEM #8: GENERAL PUBLIC COMMENT ON MATTERS UNDER SAVA'S JURISDICTION AND NOT ON THIS AGENDA

None

06:46:27 SEN. BROWN

06:46:56 Ms. Scurr discussed the agenda for the SAVA meeting on December 10.

06:51:44 SEN. BROWN

06:52:01 SEN. JENT

06:52:27 SEN. BROWN

06:52:55 SEN. BROWN adjourned the meeting at 3:55 PM.

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