

# LEGISLATIVE AUDIT COMMITTEE

## MINUTES SUMMARY

December 16, 2010

*Please note: These are summary minutes. The minutes are also accompanied by an audio recording. For each action listed, the minutes indicate the approximate amount of time in hours, minutes, and seconds that has elapsed since the start of the meeting. This time may be used to locate the activity on the audio recording.*

*An electronic copy of these minutes and the audio recording may be accessed from the Legislative Audit Division homepage at [http://www.leg.mt.gov/audit/meeting\\_info.asp](http://www.leg.mt.gov/audit/meeting_info.asp).*

*To view the minutes, locate the meeting date and click on **Minutes**. To hear the audio recording, click on the date link at **Listen**. Note: You must have Real Player installed to listen to the audio recording.*

### Members Present/Absent

Sen. Greg Barkus	A
Sen. John Brenden	A
Rep. Dee Brown	P
Sen. Taylor Brown	A
Sen. Mike Cooney	P
Rep. Betsy Hands	A
Sen. Cliff Larsen	P
Rep. Scott Mendenhall	P
Rep. Carolyn Pease-Lopez	P
Rep. Wayne Stahl	P
Sen. Mitch Tropila	P
Rep. Bill Wilson	A

*P= present, A=absent*

### Staff Present

Tori Hunthausen, Legislative Auditor  
Jim Gillett, Deputy Legislative Auditor  
Angie Grove, Deputy Legislative Auditor  
Monica Huyg, Legal Counsel  
Ann Hernandez, Word Processor, Supervisor

The Legislative Audit Committee met on December 16, 2010, in Room 172 of the State Capitol. Chairman, Senator Mitch Tropila called the meeting to order at 8:30 a.m., noting the presence of a quorum.

**Minutes Approval** – September 28, 2010, Minutes were approved. Motion by Rep Stahl; **motion carried**. The minutes were signed by Senator Tropila.

**Minutes Approval** – November 15 and 16, 2010, Minutes were approved. Motion by Senator Cooney; **motion carried**. The minutes were signed by Senator Tropila.

**00:00:02 Secretary of State Information Request:** presented by Secretary McCulloch

**Concerns/Discussion topics:** McCulloch was asked to return before the committee to present a list of projects intended to spend down the Enterprise Fund balance. Senator Tropila asked about the top three on the bucket list and Secretary McCulloch discussed the computer system which has been in use since 1978.

## **AUDIT REPORTS**

### **BOARD OF INVESTMENTS (10-04A)**

**00:06:16 Report presented by:** Alexa O'Dell, Financial-Compliance, Senior Auditor

**Present from the agency:** Carroll South, Executive Director  
Geri Burton, Deputy Director  
Gayle Moon, Accounting Fiscal Manager

**00:00:00 Agency response presented by:** Carroll South, Executive Director

**00:00:00 Concerns/Discussion topics:** The managers' fees that are outlined in the report are for the investment managers and are standard amounts. The fees received by the investment managers are tied to the market values of the investments, so if the market value drops the investment managers' fees decrease. When investing in foreign currency there is a currency risk, but it is not as high as the stock risk. The committee asked how much of the portfolio is currently invested in Montana based enterprises. The board explained that there are no pension investments in Montana, but they do have \$180 to \$190 million of coal-tax trusts invested only in Montana, and that there are two regional pension funds that look for investments in Montana, but don't invest in them if they are not profitable. The MDEP investments that were discussed in the report were made back in 1983, and the board is unsure of the situation when that investment was made, but they do concur with the recommendation and will strengthen their policies to provide guidelines for investment managers regarding those types of investments.

**Handouts:** None

**Committee requests:** None

**Public Comment:** None

**Actions taken:** None

**Motion:** Report received, reviewed, filed, and copies distributed in accordance with law. Motion by; Senator Larsen **motion carried.**

### **PUBLIC EMPLOYEES' RETIREMENT BOARD (10-08A)**

**00:39:25 Report presented by:** Natalie Gibson, Financial-Compliance Senior Auditor

**Present from the agency:** Roxanne Minnehan, Executive Director  
Barb Quinn, Fiscal Services Bureau Chief  
Diann Levandowski, Assistant Fiscal Services Bureau Chief  
Rena Justice, Internal Auditor

00:00:00 **Agency response presented by:** Roxanne Minnehan, Executive Director

00:00:00 **Concerns/Discussion topics:** The Board is proposing legislation to help decrease the unfunded actuarial liability they have currently in the 2011 legislative session. The proposed legislation is seeking to change the retirement age from 60 to 65 for all new hires, to increase employer contributions for part-time, previously retired, employees, and to increase new hire contributions to 1%. If the legislation is passed it will come into effect July 1, 2011 (Fiscal year 2012). The committee questioned where the money will come from for the increased employer contributions. The Board stated that the individual employers would have to budget for those increased contributions.

**Handouts:** None

**Committee requests:** None

**Public Comment:** None

**Actions taken:** None

**Motion:** Report received, reviewed, filed, and copies distributed in accordance with law. Motion by; Senator Cooney **motion carried.**

#### **TEACHERS' RETIREMENT SYSTEM (10-09A)**

01:16:33 Report presented by: Amber Dushin, Financial-Compliance Auditor

**Present from the agency:** David Senn, Executive Director  
Tammy Rau, Deputy Executive Director  
Dan Gaughan, Accounting Manager

01:18:22 **Agency response presented by:** David Senn, Executive Director

**Concerns/Discussion topics** Committee questioned the bill to reduce the reserves of the Teachers' Retirement System and whether it will increase mill levies? The board responded that from the work that has been done on the subject they do not believe that it will. HB 116 will increase the supplemental contribution rate each year by a half percent until the plan is actuarially sound, in the next biennium the cost will be approximately \$11 million, and about \$3-4 million each biennium after that.

**Handouts:** None

**Committee requests:** None

**Public Comment:** None

**Actions taken:** None

**Motion:** Report received, reviewed, filed, and copies distributed in accordance with law. Motion by; Senator Tropila **motion carried.**

**01:32:05 Break**

**ANALYSIS OF RETIREMENT BENEFIT INFLATION IN MONTANA'S STATE PENSION SYSTEMS (10P-10)**

01:40:36 Report presented by: Ross Johnson, Performance Auditor

**Present from the agency:** **Public Employees' Retirement Board**  
Roxanne Minnehan, Executive Director  
Barb Quinn, Fiscal Services Bureau Chief  
Diann Levandowski, Assistant Fiscal Services Bureau Chief  
**Teachers' Retirement System**  
David Senn, Executive Director  
Tammy Rau, Deputy Executive Director  
Dan Gaughan, Accounting Manager

01:57:18 **Agency response presented by:** Roxanne Minnehan, Executive Director, MPERA  
David Senn, Executive Director, TRS

**Concerns/Discussion topics:** The agencies are proposing legislation that will address some areas of the salary spiking. This will apply to current and new employees for the TRS, but it will only apply to new hires for the rest of the MPERA systems.

**Handouts:** None

**Committee requests:** None

**Public Comment:** None

**Actions taken:** None

**Motion:** Report received, reviewed, filed, and copies distributed in accordance with law. Motion by; Senator Cooney **motion carried.**

**MONTANA STATE FUND (10-05A)**

02:06:33 Report presented by: Brenda Kedish, Financial-Compliance Senior Auditor

**Present from the agency:** Laurence Hubbard, President  
Mark Barry, Vice President of Corporate Support  
Patti Grosfield, Internal Auditor

**Agency response presented by:** Laurence Hubbard, President

**Concerns/Discussion topics** The General Fund is responsible for any unfunded obligations once the old fund runs out. There is not a cap on medical claims; they are to be paid for the life of the injury, but there may be a cap on wage benefits depending on the year in which the injury occurred.

**Handouts:** None

**Committee requests:** None

**Public Comment:** None

**Actions taken:** None

**Motion:** Report received, reviewed, filed, and copies distributed in accordance with law. Motion by; Rep Pease-Lopez **motion carried.**

**PAR COMPENSATION DISCLOSURE (08P-08)**

Presented by: Laurence Hubbard, President

**Discussion & Actions taken:** The committee requested that Montana State Fund appear at the next committee meeting to report on the Board's decision regarding the recommendation of publishing executive compensation.

**OTHER BUSINESS:**

**Legislation:** Monica discussed proposed audit committee bills.

02:34:18 **Lunch Break**

**JUDICIAL BRANCH (10-27)**

04:04:20 **Report presented by:** Zac Yates, Financial-Compliance Auditor

**Present from the agency:** Mike McGrath, Chief Justice  
Becky Buska, Director, Financial Services  
Lois Menzies, Court Administrator

**Agency response presented by:** Mike McGrath, Chief Justice

**Concerns/Discussion topics:** The controls to prevent unauthorized payments for the Family Drug Courts are already being implemented and should be fully implemented by the end of the fiscal year. The Branch believes that they do not have to have control over the filing fees because the people who owe the fees cannot proceed with their case. The issue is whether the clerks of the district court appropriately transfer the money to the Department of Revenue. The Branch will be coordinating with the clerks of the district court and the Department of Revenue to ensure that these are being paid and accounted for properly.

**Handouts:** None

**Committee requests:** None

**Public Comment:** None

**Actions taken:** None

**Motion:** Report received, reviewed, filed, and copies distributed in accordance with law. Motion by; Senator Cooney **motion carried.**

**MONTANA UNIVERSITY SYSTEM WORKER'S COMPENSATION (10C-04)**

Report presented by: John Steinhoff, Junkermeier, Clark, Campanella & Stevens PC

**Present from the agency:** Sheila Stearns, Commissioner of Higher Education  
Leah Tietz, Director

Russ Fillner, Committee Chair

**Agency response presented by:** Sheila Stearns, Commissioner of Higher Education

**Concerns/Discussion topics:** Committee questioned how the University System Workers' Compensation rates differ from those of Montana State Fund. The agency was unable to comment because they do not know what Montana State Fund's rates are.

**Handouts:** None

**Committee requests:** None

**Public Comment:** None

**Actions taken:** None

**Motion:** Report received, reviewed, filed, and copies distributed in accordance with law. Motion by; Senator Larsen **motion carried.**

**BOARD OF HOUSING (10-07)**

Report presented by: Mark Alldredge, Financial-Compliance Auditor

**Present from the agency:** Bruce Brensdal, Director  
Chuck Nemec, Accounting Manager

**Agency response presented by:** Bruce Brensdal, Director

**Concerns/Discussion topics:** The Board has been at 20 percent of their usual level of lending for the last few years and they do expect that to increase within the near future. They partner with 30 to 40 banks around the state and the bank initially issues the mortgage, then it is both on the secondary market by the Board of Housing. People are aware that they are applying for a Board loan, but it is brokered through the bank.

**Handouts:** None

**Committee requests:** None

**Public Comment:** None

**Actions taken:** None

**Motion:** Report received, reviewed, filed, and copies distributed in accordance with law. Motion by; Senator Tropila **motion carried.**

**FACILITY FINANCE AUTHORITY (10-12)**

Report presented by Frank Cornwell, Financial-Compliance Auditor

**Present from the agency:** Michelle Barstad, Executive Director

**Agency response presented by:** Michelle Barstad, Executive Director

**Concerns/Discussion topics:** None

**Handouts:** None

**Committee requests:** None

**Public Comment:** None

**Actions taken:** None

**Motion:** Report received, reviewed, filed, and copies distributed in accordance with law. Motion by; Senator Cooney **motion carried.**

**FOLLOW-UP AUDIT REPORTS:**

**05:00:12 PERFORMANCE FOLLOW-UPS**

**STATE VEHICLE FLEET MANAGEMENT 11SP-07**

**Presented by: ROSS JOHNSON, PERFORMANCE AUDITOR**

**Discussion & Actions taken:** None

**PERFORMANCE FOLLOW-UPS**

**05:09:14 MONTANA'S SUBSEQUENT INJURY FUND 11SP-11**

**Presented by: STEVE ERB, PERFORMANCE AUDITOR**

**Discussion & Actions taken:** None

**INSURE MONTANA (10P-09)**

**05:10:38** Report presented by: Diedra Murray, Performance Senior Auditor

**Present from the agency:** Jill Sark, Insure Montana Program Manager  
Jesse Laslovich, Chief Legal Counsel

**Agency response presented by:** Jesse Laslovich, Chief Legal Counsel

**Concerns/Discussion topics:** The agency is attempting to change the definition of related employer to comply with the recommendation and to help prevent unintended consequences. The agency is currently working with DOR and DLI to rectify eligibility issues. In previous years about 25-30 businesses have dropped out of the program each year. In 2010, only 4 businesses did not renew for the purchasing pool program and 32 did not renew for the tax credit program.

The agency does not believe there was an overpayment for the businesses that had employees or employers making more than \$75,000 per year because they did report at renewal in October and were removed from the program at that time. The auditors believe there was an overpayment because the statute says they are to use the previous tax year in determining eligibility and the businesses that should have been ineligible were still receiving benefits through October.

The agency also did not feel there was an overpayment for the businesses that had delinquent income taxes because seven of the nine businesses discussed in the report were partnerships

or LLCs, so they did not have to pay income taxes; and the other two had the delinquent taxes paid by the time the agency was able to follow up. The auditors felt there was an overpayment because the Schedule Cs and Fs that were examined during the audit did show a tax liability that had not been paid.

**Handouts:** None

**Committee requests:** None

**Public Comment:**

**Actions taken:** None

**Motion:** Report received, reviewed, filed, and copies distributed in accordance with law. Motion by; Sen. Larsen **motion carried.**

**Break**

**OTHER BUSINESS:**

**New Member Orientation:**

**Motion:** Report received, reviewed, filed, and copies distributed in accordance with law. Motion by; **motion carried.**

**Next Meeting:** Auditor Hunthausen will notify members of next meeting.

There being no further business, the meeting was adjourned at 07:58:22 p.m.

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Signed: \_\_\_\_\_