



State Administration and Veterans' Affairs Interim Committee

61st Montana Legislature

SENATE MEMBERS

JOE TROPILA--Chair
JOE BALYEAT
LARRY JENT
DAVE LEWIS

HOUSE MEMBERS

GORDON HENDRICK--Vice Chair
TIMOTHY FUREY
PAT INGRAHAM
ROBERT MEHLHOFF

COMMITTEE STAFF

RACHEL WEISS, Research Analyst
DAVID NISS, Staff Attorney
FONG HOM, Secretary

MINUTES

March 19, 2010

Room 137, Capitol Building
Helena, Montana

Please note: These minutes provide abbreviated information about committee discussion, public testimony, action taken, and other activities. The minutes are 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.

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COMMITTEE MEMBERS PRESENT

SEN. JOE TROPILA, Chair
REP. GORDON HENDRICK, Vice Chair

SEN. JOE BALYEAT
SEN. LARRY JENT
SEN. DAVE LEWIS

REP. TIMOTHY FUREY
REP. PAT INGRAHAM
REP. ROBERT MEHLHOFF

STAFF PRESENT

RACHEL WEISS, Research Analyst
DAVID NISS, Staff Attorney
FONG HOM, Secretary

Visitors List and Agenda

Visitors' list, Attachment 1
Agenda, Attachment 2

COMMITTEE ACTION

- The committee requested that Dave Bohyer continue to look for inconsistencies, if any, of state employees receiving bonuses at the end of a career versus at the beginning of a career.
- The committee requested that Buck Consultants look at options that would have fiscal impacts on the employer and employees.
- The committee approved the changes in the Plan Design Alternatives.
- The committee adopted the Memorandum of Understanding with the Teachers Retirement System for actuarial services.

CALL TO ORDER AND ROLL CALL

- 00:00:01 Sen. Tropila called the meeting to order at 9:03 a.m.. The committee secretary called roll. Everyone was present.
- 00:01:06 The minutes from the October 29 and 30, 2009, meeting; the December 11, 2009, meeting; and the March 3, 2010, meeting were approved as written.

AGENDA

HJR 35 Bonus Study Update - Dave Bohyer, Research Director, LSD

- 00:01:40 Mr. Bohyer gave a report on the HJR 35 Study: Bonus Pay for State Employees **(Exhibit 1)**.

Questions

- 00:23:48 SEN. BALYEAT asked about the payment called the Golden Parachute that was made to a Historical Society employee. **Mr. Bohyer** said that when Sen. Balyeat was the chair of the Audit Committee, it was divulged that one of the former executive directors had been terminated but allowed to continue receiving pay until his termination date. The Audit Committee came forward with a bill, 2-18-621, MCA, that said in subsection (2), an employee who terminates employment is entitled to receive only payments for accumulated wages, vacation leave, etc., and subsection (b) says an employee who terminates employment may not receive severance pay, a bonus or any other type of monetary payment not described in subsection (2)(a)(1) or (2)(a)(2).
- 00:33:03 REP. FUREY asked if departments can provide some type of incentive system using the 2% across the board increase? **Mr. Bohyer** said that depends on what the language is in the bill and in HB 13. The flexibility that the agencies have in their pay plans is, if they can find additional money, they can move it within the division and grant pay increases through other means.
- 00:35:02 REP. MEHLHOFF asked if the incentives or bonuses that are paid going evenly across the board to all employees or do they go to employees on the upper end of salaries? **Mr. Bohyer** said that he thought that the bonuses or incentives were

well-distributed throughout the agencies to all employees who were eligible.

REP. MEHLHOFF asked if there was any indication that employees were awarded these incentives late in their career. **Mr. Bohyer** said that the numbers he had didn't indicate when in their careers employees got the incentives.

00:41:55 REP. INGRAHAM asked if individual pay plans for each department are audited for compliance. **Mr. Bohyer** said that he doesn't know but under the guidelines and the rules that the Department of Administration adopted, it says that they are suppose to revisit those play plans and make modifications as determined necessary by the entity that adopts them.

No Public Comment at this time.

Motion

00:54:17 REP. MEHLHOFF **moved** to have Mr. Bohyer continue to look for inconsistencies of employees receiving bonuses at the end of a career versus at the beginning of a career. The motion passed.

HB 659 STUDY: RETIREMENT PLAN DESIGN POLICY GOALS - Dave Slishinsky and Doug Fiddler, Consulting Actuaries, Buck Consultants

00:55:48 Dave Slishinsky discussed the sections contained in the Retirement Plan Design Project Workbook.

SECTION II: Defined Benefit (DB) and Defined Contribution (DC)

01:05:21 Mr. Slishinsky talked about the Defined Benefit and Defined Contribution Plans, hybrid plans, survey of state retirement systems from other states, information on what other states have been doing, what legislation and what the current activity is, what is being proposed and being discussed to address funding status, unfunded liabilities of these plans in other states, possible alternative designs, combinations of plans, the proposal of changes to the defined benefit, the money purchase plan, and implementation issues.

(The time stamps and underlined sections that follow correspond with the consultant's review of the workbook. The recorded minutes also contain questions from committee members during the review. To listen to the meeting recording, please visit leg.mt.gov/SAVA and click on the link called Full Meeting Schedule & Meeting Minutes. The recordings are available under the March 19 heading.)

01:28:49 **Information from the National Institute on Retirement Security on Public Pension Basics**

- 01:29:00 **Issue Brief on Why Have Defined Benefit Plans Survived in the Public Sector?**
- 01:41:04 **Issue Brief on Why Have Some States Introduced Defined Contribution Plans?**
- 01:52:23 **White Paper: Myths and Misperceptions of Defined Benefit and Defined Contribution Plans.**
- 02:04:29 **White paper: Arizona State Retirement System**

SECTION III: HYBRID PLAN DESIGN

- 02:22:07 **Cash Balance Plan**
- 02:37:56 **Pension Equity Plan**
- 02:41:20 **Floor Offset Retirement Plan**
- 02:42:06 **"Inverse" Floor Offset Retirement Plan**
- 02:43:38 **Article on cash balance plans for school teachers**
- 02:44:08 **Comparison of Selected Features of Public Sector Hybrid Retirement Benefit Plans**
- 02:47:33 **Milliman: Public plan DB/DC choices**

SECTION IV: SURVEY OF STATE RETIREMENT SYSTEMS

- 02:48:47 **National Association of State Retirement Administrators: Overview**
- 02:49:46 **Wisconsin Legislative Council Survey: 2008 Comparative Study of Major Public Employee Retirement System**

SECTION V: WHAT OTHER STATES ARE DOING

- 02:59:35 **Recent Articles on What Other States are Doing**

SECTION VI: Possible Alternative Plan Designs

03:12:16 **Mr. Slishinsky** said that items 1 through 7 in Section VI talk about making changes primarily to the defined benefit plan. Item 8 creates a money purchase plan. He asked the committee if their intent was to have a defined benefit plan and a money purchase plan for new hires, or is the committee considering two different plans? Mr. Slishinsky discussed the items in the Plan Design and answered questions from the committee.

03:13:12 **1. Apply the reduced early retirement benefit for an employee retiring before the age of 60, regardless of years of service.**

Mr. Slishinsky said that in both plans there is a retirement age for unreduced retirement based on years of service and not based on age. A change in that benefit structure would require age 60 as the age for full unreduced retirement payments and anybody who retires younger than age 60, would get a reduction to the benefit amount.

03:14:33 **2. Apply the reduced early retirement benefit for an employee retiring with less than 15 full-time years of service in the system**

Ms. Weiss said that this was to be an alternative to No. 1, whereas No. 1 set an age. Item 2 says that you have to be employed by the state for 15 years, and if not, you would still get a benefit but it would be reduced in some manner for the amount of time that you work less than 15 years. The committee decided that they wanted to continue considering this alternative.

Questions

03:15:46 SEN. BALYEAT said that with the exception of item 3, items 1 through 7 were different suggestions to close loopholes that are perceived for people to "game" the system. **Mr. Slishinsky** said that if you define age 60 as your retirement age, you would have available some reduced retirement benefit that becomes available at some other reduced age.

03:19:40 **David Senn, Ex. Dir., Teachers Retirement System**, said that in both TRS and PERS you can retire at age 60 with as few as 5 years of service, at which time you become "vested" in the retirement system. Age 60 is the age at which you can retire with full retirement benefits. In TRS, if you are less than age 60, you can retire at any age with 25 years of service. If you have less than 25 years of service, less than age 60, there is an actuarial reduction. Somebody with 20 years of service that is age 50 is only going to have a 5-year reduction because

they are only 5 years away from that 25 years of service.

03:22:31

3. Increase the state's contribution rate.

Mr. Slishinsky said that item 3 could apply to a new tier of benefits and could apply to the current defined benefit plans, or it could apply to a new type of plan such as a money purchase plan for new hires.

03:22:57

4. Change the timeframe used in PERS-DB to calculate the highest average compensation (HAC) from the three highest consecutive years of service up to 15 consecutive years of service.

Mr. Slishinsky said that by expanding the number of years in the averaging period, you begin to address some of the issues relating to salary spiking. It helps to limit the amount of salary spiking if you increase the number of years in the averaging period. According to the result of the surveys, most states will either use 3 years or 5 years in their averaging. Very few states use averaging periods that extend beyond 5 years.

03:31:55

5. Change the timeframe used in TRS to calculate the average final compensation (AFC).

Mr. Slishinsky said that item 5 is the same as for TRS.

03:32:13

6. Create a mechanism that would automatically adjust the full-benefit retirement age for members based on changes in the life expectancy.

Mr. Slishinsky said that one of the issues of the cost increase of a pension plan in the last 20 years is because of the increase in life expectancy. When life expectancy increases but retirement age doesn't, you have an increase in normal cost rate and unfunded liability. Current tables say that there is an expectation of average life expectancy of about 20 years, from 65 to 85. If you had a normal retirement age of age 65, and every time life expectancy increases, you have an increase in that retirement age.

03:41:28

7. Alter the GABA to reduce costs for new employees only or new employees, current employees, and current retirees.

Mr. Slishinsky said that there are legal issues that would have to be worked through in order to determine whether or not you can apply those reductions to current members. He said that if this applies to new hires only, then you could say that the GABA is 1.5% as long as the funded status is at least 90%; then if the funded status of the plan drops below 90%, the GABA drops to 1%. If the funded ratio drops from 85% to 80%, the GABA drops to .5%. If the funded status is less than 80%, then there is no GABA.

- 03:44:58 **8. Create a money purchase plan**
Mr. Slishinsky said that in a money purchase plan all the assets would be invested by the Montana Board of Investments. The fixed employee and employer contribution rates would be set by the legislature and the employee contributions earn a guaranteed interest rate.
- 03:50:00 **F. A larger annuity is earned by a member who waits longer to apply for benefits.**
Mr. Slishinsky said under this type of plan, the balances would always have some kind of increase from one year to the next. There would be no reductions in those balances due to negative investment returns.
- 03:50:48 **G. Member account earnings continue to accrue if a member leaves covered employment and does not withdraw the account.**
Mr. Slishinsky said that if someone who terminates in mid-career but leaves the money in their account, that money continues to earn the interest crediting rate as defined by the plan.
- 03:51.48 **H. A refund in lieu of an annuity would include only the employee's contributions plus earnings on those contributions.**
Mr. Slishinsky said if someone doesn't elect an annuity, then they would only get a refund of their employee contributions. That only refers to someone who left before retirement age. They either leave their employee balance in the plan, and at some future point when they reach retirement age, do a conversion of both the employee and employer balance. If they want to take a distribution of their employee balance before retirement age, then they only get the employee portion.
- 03:52:11 **I. A COLA provision is included.**
Mr. Slishinsky said that it is difficult to have a COLA fluctuate with investment returns. They mentioned another approach of using the funded status of adjusting the COLA because the issue is with increased contribution levels when benefits are fixed and the funded status deteriorates because of actuarial losses and contribution rates go up.
- 03:53:06 **9. For current TRS members only, create a professional retirement option.**
Mr. Slishinsky asked the committee if item 9 applies to either the money purchase plan or the defined benefit plan options?

SEN. JENT said the idea was to reward those who stay for 30 years with a multiplier of 2%, reasoning that those who kept teaching would be no cost to the

system and would be contributing.

Mr. Slishinsky said you could have one multiplier for service up to 25 years and then you could have an increase in that multiplier at 25 going to 30 years to incentivize people to stay longer. Depending on how it is done and on experience, if you have a small increment and if it causes a significant change in the pattern that people retire, it may not cost money at all.

Discussion

03:56:48 **Ms. Weiss** said that the committee might want to look at a cash balance plan with these types of options and compare them head to head. She said that the committee reviewed the provisions in task 2 and 3 in the RFP. The committee should begin some conversations with the consultants about looking at different plans and comparing them.

SEN. JENT said that they would like to know from the consultants what the various iterations of this plan are. He is concerned about whether the assumptions are valid or not.

04:02:06 **Mr. Slishinsky** said that if you went to a cash balance plan, you could increase the contribution credit into the account when somebody reaches 25 years of service. That is the same kind of change that you can make on the money purchase or cash balance that you put on a DB.

04:06:32 SEN. JENT said that the point he is trying to make is twofold: look at something that will help solve the problem with current employees, and look at a redesign that is not only fiscally sound but also has to do with personnel goals. The human resource goal should not be put in the background just because we have an actuarial problem.

04:08:15 REP. HENDRICK said that we have to keep in mind that rural areas have a tough time keeping up with the pay against the larger cities. We have to come up with better incentives for retirement and for pay to keep the teachers there.

04:11:11 **10. For PERS, change multiplier from 1/50th to 1/56th after 25 years.**
Mr. Slishinsky said changing the multiplier from 1/50th to 1/56th is less than the current formula.

Questions

04:12:44 SEN. BALYEAT said that it reads opposite of what they are proposing under the PRO plan for teachers, that you are going to give them less benefit if they decide

to stay longer. **Ms. Weiss** that item 10 resulted when the committee was reviewing the RFP, there was public comment that suggested that perhaps the committee should look at changing the current multiplier for PERS because you get an additional benefit for every year you stay after 25 years in the system. At that point a motion was made to include that option in the RFP and the motion passed.

SEN. BALYEAT said that perhaps a motion was made based on that public comment at the end of our meeting. H said that he doesn't understand how that is going to be a benefit.

LUNCH

No Public Comment made at this time.

SECTION VII: SAVA SURVEY RESULTS

04:58:27 **Doug Fiddler** said that the goal of the survey was to determine what the goals and the priorities of the committee were, and to get committee consensus on decisions and main points.

05:11:37 **Mr. Slishinsky** said the question becomes: what do we do with this information? They would like to develop a set of policy goals in the next phase that provide input on what the committee is seeking and what risks they want to avoid.

Questions

05:12:32 REP. HENDRICK said that he mentioned earlier that the rural areas are losing jobs and families, which means they lose students and teachers. How will this affect your actuary and are we going to have to change this after we get new figures for 2009? **Mr. Slishinsky** said that the impact of demographic changes is going to have an impact on the funding of a retirement plan. The question is, when these teachers in those rural areas are leaving, are they going to teach in larger cities or are they leaving the state. If they are not leaving the state, as far as the system goes, it is just a redistribution of teachers from the rural areas to the larger cities. That would not have long term significant impact to the system.

Public Comment

05:16:06 **Roxanne Minnehan, Executive Director, Montana Public Employees Retirement Administration**, said that the Board is not in favor of redesigning the PERS.

05:18:04 **Jessie Luther, Association of Montana Retired Public Employees**, said their

interpretation of the law is that you cannot change benefits for current public employees or current retirees without replacing that with some other benefit. They will put together a detailed analysis of the law on that aspect and what you can and cannot change for current retirees and current employees as far as their benefits are concerned. They would like to present that analysis at the next meeting.

SECTION VIII: DEVELOP SAVA RETIREMENT PLAN DESIGN POLICY GOALS

05:19:55 **Mr. Slishinsky** said that the committee should read the Work Sheet, look through the goals and make a check mark on whether or not you feel that achieving that is something that is of value or if you feel that it is a risk to avoid.

After some discussion regarding the work sheet, the committee decided to have the consultants explain each goal and answer any questions.

05:25:11 **Assure that promised benefits are paid when due.** That is a benefit security issue, making sure there is enough money that is accumulated in the pension to pay all of the benefits.

05:26:11 **Allow flexibility in contribution from year to year.** If that is something that is of value, then you would check the "seek value". If you want to avoid fluctuations in the contribution from year to year, you would check "avoid risks".

Discussion and Questions

05:27:12 Ms. Weiss asked the consultants what they need from the committee and what their timeline is.

Mr. Slishinsky said that their next step is to take the information and develop some kind of policy goals. They will include in their analysis how each of the goals compares with various plan designs, which plan designs rank best when compared to the committee's stated policy goals, but in order to do that, they will need to have some sense of what it is that the committee is looking for in a plan, what is important in that plan, and what fears does the committee have with regards to making sure that they avoid aspects of that plan that are detrimental or did not help with achieving the goals and objections for the plan.

05:29:27 SEN. LEWIS said that it seems like there is a partial consensus of the committee to look at the money purchase option for both plans.

Motion

SEN. LEWIS moved that the committee ask the consultants to examine the

implementation of the money purchase plan for both TRS and PERS and report back on their conclusions.

Discussion

- 05:30:57 REP. MEHLHOFF said that he wanted to know how we can revise our present system, make it more actuarially sound as an option so that we can look at both of those events.
- 05:31:50 REP. INGRAHAM asked Ms. Weiss to go over the resolution that brought the consultant to this committee. **Ms. Weiss** said that HB 659 required the SAVA to look at the funding and benefits provided by all of the retirement systems. With regards to TRS, HB 659 requires the committee to come up with a redesign of the system. Work with the PERS system is at the discretion of the committee.
- 05:33:08 SEN. BALYEAT said the direction we want to go depends on savings and that the committee isn't at that point yet. He wants to look at the PRO plan for current employees while looking at some of the plan modifications to existing PERS and TRS plans based on items 1 through 7.
- 05:34:27 SEN. LEWIS said that he doesn't have any problems looking at both. He thinks that the committee should move forward because they are running out of time. He said that it sounded like there was some interest in the money purchase plan.

Substitute Motion

SEN. LEWIS made a substitute motion to have Buck Consultants compare money purchase plans against the current plans modified in some way by items 1 through 7.

SEN. JENT asked that the consultants be directed to explain the various permutations of basic options for existing and future hires.

- 05:36:53 REP. MEHLHOFF asked how the consultants are going to get updates on the status of the retirement systems with the recent market gains? **Mr. Slishinsky** said, with regard to the actuarial calculations for each of the PERS and TRS systems, the RFP stated that any of those calculations would be done by the current actuaries, which is not Buck Consultants. The committee could ask each system to provide an update of the actuarial status of their respective systems given their investment return thus far at the next meeting.
- 05:38:23 **David Senn, Executive Director, TRS**, said that he doesn't have current information but they would be happy to run those and bring those to the

committee at the next meeting.

05:41:25 **Roxanne Minnehan, Executive Director, PERS**, said that the number she has is that PERS is up \$689 million in the last 6 months. Clifford Sheets told the Board that investments were up 16% as of the end of January.

05:42:39 SEN. LEWIS said that they have seen enough to know that some redesign suggestions make sense and the committee has to start somewhere. He would stick with his motion to move forward to have a bill ready by next fall.

05:43:27 SEN. BALYEAT said that a motion might be a little bit premature. The committee could look at potential design alternatives in Section VI and strike some things off that list.

REP. MEHLHOFF said he would be interested in using item 5 or item 7 for the highest average compensation figure and would like to keep looking at increasing the state's contribution rate.

05:47:37 SEN. LEWIS said that he would go back to the original motion which was to have the consultants look at the two options and provide the committee with information on those. If that motion passes, then the committee could go in and give some additional leadership and guidance on how to look at these. He doesn't have a problem with anything that has been said here, but it might be awkward to put it all in a motion.

05:48:26 SEN. JENT agreed that that is a sensible way to do it. Then we are essentially asking for the consultants to begin to forecast what will happen with various redesign options that we have designated under our design alternatives and we can refine or reiterate the options when we get more information as to what they will do.

05:49:35 REP. INGRAHAM asked if what they are proposing give the consultants something to work from to come up with a comparison for the committee to look at without being more specific? **Mr. Slishinsky** said the best approach is for Buck Consultants to come up with some alternatives that are consistent with the survey results as well as the potential plan design alternatives that are already there. They could then give the committee some input from their expertise with regards to design that makes sense based upon responses to earlier questions. He would suggest that as an alternative, to apply defined benefits with changes on the money purchase as new tiers and maybe a third, too.

Motion

05:51:27 SEN. LEWIS **moved** that the consultants look at the options that were discussed and amended, present any options that the consultants think would be appropriate, and present what each one would mean as far as the fiscal impact on the employer and employees at the next SAVA meeting.

05:52:24 Ms. Weiss said, for clarification, the consultants will not be doing any actuarial costing. The committee has to come up with one or two plans and submit those to the TRS actuaries and the PERS actuaries. Those actuaries will give the committee members the numbers and the consultants will confirm those numbers, but the actual crunching of numbers is going to be done by the current actuaries.

05:53:31 SEN. BALYEAT said that Ms. Weiss' comment raises two issues: 1) the committee should ask Ms. Minnehan or Mr. Senn whether or not what Sen. Lewis is proposing in his motion doable by the existing actuaries; and 2) should the committee amend Sen. Lewis' motion to ask our consultants to work with our actuaries to give us the numbers we are looking for.

05:54:08 Ms. Weiss said that she can't speak for the retirement systems but part of the RFP anticipated that the consultants will work with the actuaries to come up with these numbers. Ms. Weiss discussed the Memorandum of Understanding between SAVA and the Teachers' Retirement System that would need to be signed in order for the committee to begin making those types of requests from TRS.

05:55:13 **Sen. Lewis' motion passed.**

05:55:28 Ms. Weiss discussed what the committee decided with regard to the Design Alternatives:

- Design Alternative No. 1, leave it alone.
- Design Alternative No. 2, strike.
- Design Alternative No. 3, keep.

SEN. BALYEAT said that Rep. Mehlhoff requested that we get an estimated contribution rate increase amount that would get us back to being actuarially sound.

REP. MEHLHOFF said his request was that over the 30-year period, the goal of the committee should stay within a 30-year amortization window.

SEN. JENT said that we want to know what the amount of state contributions will be over the next biennium that will allow the systems to amortize the unfunded liability over 30 years.

- Design Alternative Nos. 4 and 5 with the highest average compensation or the AFC, you want to look at 5 years and 7 years.
- Design Alternative No. 6 you would like the consultants to flesh out how that might work.

SEN. JENT suggested striking No. 6. SEN. BALYEAT said that it is hard to do No. 6 unless you make it contingent on No. 1 because we don't have an existing minimum retirement age. Nonetheless, there might be some benefit to exploring No. 6 in conjunction with No. 1. He would like to leave the consultants with flexibility to look at that to see if it is worth pursuing. SEN. JENT agreed.

- Design Alternative Nos. 7 and 8, leave as is.
- Design Alternative No. 9, leave as is with the additional explanation from Sen. Jent.
- Design Alternative No. 10, strike.

Motion

06:02:00 REP. HENDRICK **moved** to approve the changes in the Design Alternatives. The motion passed.

06:02:31 **Mr. Slishinsky** said that they will present alternatives, side by side comparisons of the current plan design. They would also like to get together and give one or two other alternatives that have some merit. It will all be based upon discussions today and information that they have from the survey.

Public Comment

06:03:00 **Michael O'Connor, former Executive Director of PERA**, said that the committee needs to decide on the alternatives, then look at the ancillary benefits and how the plan changes affect disability, survivorship, death benefits to give staff direction for bill drafting purposes.

06:04:12 **David Senn, Executive Director, TRS**, asked for clarification on No. 3. He said that they could give the committee numbers but it will either be February month end or March month end, depending on how quickly they can get those numbers and whether the actuary can prepare them based on market value. If the committee wants anything else, TRS needs to know that now.

06:06:22 **Charlene Suckow, Montana Retired Educators Association**, asked if the committee is looking at the changes individually or as a package? If you are looking at what kind of changes are needed, you might want items 3 and 4 in order to do them, or item 9 and whatever, instead of saying you want all of those changes as one product.

SEN. BALYEAT said they could look at each as stand alone changes for now and maybe later as a package.

BREAK

UPDATE ON PERB RESPONSE TO JAKSHA RULING

06:19:38 **Melanie Symons, Chief Legal Counsel, Montana Public Employees Retirement Administration**, discussed the Jaksha vs. Butte Silver Bow decision issued by the Supreme Court of Montana and its impact on the Firefighters Unified Retirement System.

Public Comment

06:32:11 **Doug Neil, Montana State Firemen's Association**, said that he finds it unfortunate that MPERA was put in the middle of the lawsuit and found to have violated the Governmental Code of Fair Practices. This lawsuit and the bills the Association has been against was never an age discrimination issue on their part. They will live with the decision of the Supreme Court.

PERFORMANCE AUDIT OF TRS AND MPERA - Ross Johnson, Performance Auditor, Legislative Audit Division

06:35:57 Mr. Johnson discussed the project that deals with the defined benefit retirement system. He said that they are looking at the practice of salary spiking, and in particular what impacts of that practice may have on retirement liabilities, whether there are potentially improper payments made, and assessing the efforts that detect and deter the practice within the retirement systems in Montana.

Questions

06:37:28 REP. INGRAHAM asked how legislators work in the process and do different administrations audit their own plans for giving bonuses or incentives, and are the different administration complying with their own plans. **Mr. Johnson** said that it is too early to say whether or not they will go forward with an audit. They will address an issue specific to a legislator's service time.

06:39:24 **Angie Grove, Deputy for Performance Audits, Legislative Audit Division**, said that they are in the process of establishing scope. Part of looking at the control system will be looking to see how the plans audit and monitor

themselves.

APPROVAL OF MEMORANDUM OF UNDERSTANDING

06:40:19 Ms. Weiss discussed the adoption of the draft Memorandum of Understanding (MOU) between SAVA and TRS (**Exhibit 2**).

Motion

06:43:52 REP. HENDRICK **moved** to accept the Memorandum of Understanding with the Teachers Retirement System for actuarial services. The motion passed.

ADMINISTRATIVE RULE REVIEW - David Niss, Legal Counsel

06:44:46 Mr. Niss reported that there is no Rule Review at this time.

WESTERN TRADITION PARTNERSHIP LAWSUIT - David Niss

06:45:31 Mr. Niss discussed the U.S. Supreme Court pending decision over Citizens United vs. Federal Election Commission and the self-described grassroots organization called Western Tradition Partnership (WTP case), that is seeking to implement Citizens United in Montana. Mr. Niss said there is no point in making any recommendations to SAVA on legislation to implement Citizens United until the District Court and the Montana Supreme Court determines what is or is not constitutional.

Mr. Niss discussed the disclaimer and disclosure requirements applicable specifically to corporations. He suggested that the committee hear from Dennis Unsworth, Commissioner of Political Practices, on whether or not current state statutes can be interpreted to apply to corporation disclosure and disclaimers for state elections.

Public Comment

07:02:56 **Anthony Johnstone, State Solicitor, Office of Attorney General**, said the Attorney General wrote an amicus brief in Citizens United asking it to respect the role of the state's laws. They are defending the Western Tradition Partnership lawsuit and he would be happy to answer questions about the lawsuit. Their understanding is that the disclosure laws currently cover corporations and that is because the disclosure laws are built for both ballot measures and candidate and political committee expenditures. Montana laws were adopted in response to a 9th Circuit Court ruling in the late 1970s. He offered to update the committee when anything happens.

Committee Business

07:08:35 REP. INGRAHAM **moved** that Dennis Unsworth, Commissioner of Political Practices, be an agenda item for the next meeting. The motion passed.

Adjournment

07:09:02 With no further business before the committee, Sen. Tropila adjourned the meeting at 4:11 p.m.

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