



State Administration and Veterans' Affairs Interim Committee

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58th Montana Legislature

SENATE MEMBERS

KEITH BALES
KELLY GEBHARDT
JOSEPH TROPILA
MICHAEL WHEAT

HOUSE MEMBERS

STANLEY FISHER
LARRY JENT
RALPH LENHART
BERNIE OLSON

COMMITTEE STAFF

JOHN MACMASTER, Staff Attorney
REBECCA SATTLER, Secretary
DAVE BOHYER, Research Director

MINUTES

January 23, 2004

Rm. 102, Capitol Building

MORNING SESSION - Joint morning meeting of the State Administration and Veterans' Affairs and the Economic Affairs Committees

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.

ECONOMIC AFFAIRS COMMITTEE MEMBERS PRESENT

SEN. MIKE TAYLOR
SEN. SHERM ANDERSON
SEN. JEFF MANGAN
SEN. GLENN ROUSH

REP. JOE MCKENNEY
REP. JIM KEANE
REP. NANCY RICE FRITZ
REP. SCOTT MENDENHALL

STATE ADMINISTRATION AND VETERANS' AFFAIRS COMMITTEE MEMBERS PRESENT

SEN. KEITH BALES
SEN. KELLY GEBHARDT
SEN. JOSEPH TROPILA
SEN. MICHAEL WHEAT

REP. STANLEY FISHER
REP. LARRY JENT
REP. RALPH LENHART
REP. BERNIE OLSON

STAFF PRESENT

DAVE BOHYER, Research Director

JOHN MacMASTER, Staff Attorney
BART CAMPBELL, Staff Attorney
EDDYE MCCLURE, Staff Attorney
PAT MURDO, Research Analyst
CYNTHIA A. PETERSON, Secretary

AGENDA & VISITORS

State Administration and Veterans'
Affairs Interim Committee Agenda, ATTACHMENT 1
Economic Affairs Interim Committee Agenda ATTACHMENT 2
Visitors' list, ATTACHMENT 3

COMMITTEE ACTION

- ! Committee action on rules adopted by the Office of the Comptroller of the Currency to be taken separately by Economic Affairs Committee and State Administration and Veterans' Affairs Committee.

CALL TO ORDER AND ROLL CALL

The meeting was called to order at 8:05 a.m. by Economic Affairs Chairman, Joe McKenney. State Administrative and Veterans' Affairs Chairman, Joe Tropila, Co-Chaired the meeting. The secretary noted the roll (ATTACHMENT 4).

INTRODUCTIONS AND OPENING COMMENTS

CHAIRMAN MCKENNEY explained the meeting was being held to hear informational testimony on the banking and security industries' new federal regulations.

OVERVIEW OF BANKING AND FINANCIAL INSTITUTION REGULATION

State-chartered Banking and Financial Institutions—Annie M. Goodwin, Montana Commissioner of Banking and Financial Institutions

Annie M. Goodwin, Montana Commissioner of Banking and Financial Institutions, introduced a number of people she works closely with to the Committees and thanked them for attending the meeting. Commissioner Goodwin gave a Power Point presentation on the regulation of state-chartered financial institutions (EXHIBIT 1). Commissioner Goodwin also submitted a copy of the December 2003 newsletter from the Department of Administration, Division of Banking and Financial Institutions (EXHIBIT 2).

SEN. BALES was struck by the growth of the assets per examiner and inquired if that was a function of more assets per bank to be examined or the fact we appear to be getting more banks to be regulated by the state rather than nationally, and asked if Commissioner Goodwin felt that trend would continue.

Commissioner Goodwin felt it was a combination of the Montana banks' strong performance and also because they have chartered four additional banks and trust companies within

Montana in the last two years. This is an indication of economic health that is occurring as a result of the new additional charters. In terms of staff being able to handle the additional supervisory responsibilities, Commissioner Goodwin felt, at least at the current time, the staff they have is sufficient, but added it was crucial to maintain their current staff because of their experience and knowledge.

SEN. TAYLOR requested information on the total budget for the Division, who sets the fees, and when those fees were last raised. In addition, SEN. TAYLOR requested information on off-shore banking.

Commissioner Goodwin responded the Division's budget is \$2.2 million per year, which is set by the Office of Budget and Program Planning through the Governor's Office. The funding is obtained through assessments and examination fees on the financial institutions they oversee. Those assessment fees have not been increased within the last four years, and no increase in assessments is being contemplated. Money is also generated by fees assessed through licensure of consumer finance companies, payday lenders, and title lenders.

In addressing off-shore banking, Commissioner Goodwin explained there are no foreign capital depositories that have been chartered since the inception of the law. In fact, there has been only one application, which resulted in two hearings. In that particular case, the Board requested information, which it did not receive, so the hearing process was ultimately closed.

REP. MENDENHALL wanted to know where growth had primarily occurred in the number of financial institutions from 1996 to 2003. Commissioner Goodwin explained the majority of growth was experienced by consumer finance companies since the Division had assumed additional oversight responsibilities. REP. MENDENHALL followed up by asking if that was a reflection on families in Montana and their increasing reliance on consumer finance companies. Commissioner Goodwin agreed it was indicative of consumers turning to alternative sources of money. Commissioner Goodwin believed that as long as abusive practices do not occur by the industry, it is a viable alternative for consumers. Upon question from CHAIRMAN McKENNEY, Commissioner Goodwin clarified this was a national trend.

CHAIRMAN McKENNEY asked whether examiners perform their duties by appointments or unannounced spot checks. Commissioner Goodwin replied unannounced spot checks were no longer performed. The Division follows a very precise process which includes notice to the CEO of the institution indicating when the examiners will be performing their analysis. Pre-examination information is also requested from the institution.

Insurance and Companies—Christina Lechner Goe, Counsel for Insurance Commissioner

Christina Lechner Goe, Staff Attorney, Montana State Auditor's Office, presented written testimony to the Committees regarding state regulation of insurance and securities and how federal regulations interact, overlay, and sometimes preempt state regulation (EXHIBIT 3). Ms. Goe also presented an Overview of Montana's Insurance and Securities Departments (EXHIBIT 4).

REP. JENT presented the question that if the Gramm-Leach-Bliley Act (GLBA) allows banks to sell insurance and securities, and if the Office of the Comptroller of the Currency (OCC) rules

prevent states from regulating the subsidiaries of national banks, whether the State Auditor is prohibited from regulating the sale of insurance and securities by those subsidiaries. Ms. Goe responded they have reviewed the latest OCC regulations and have spoken with members of the National Association of Insurance Commissioners (NAIC) and other agencies, and it appears state regulation of insurance activities by banks is not totally preempted, although there are some areas where there could be some preemption. The State Auditor's Office continues to regulate these subsidiaries.

REP. JENT felt there was an allusion earlier that the OCC preemption rules may be decided in the judicial system and wondered who would have standing to challenge the rules. Ms. Goe replied she would need to look at the legal issues involved to determine standing. Ms. Goe offered to give REP. JENT additional information from her office. REP. JENT explained his question stems from concern that revenue will be lost because of the potential interpretation of legal questions.

REP. MENDENHALL asked if NAIC had any data that speaks to the estimated cost to healthcare providers for Health Insurance Portability and Accountability Act (HIPAA) compliance. Ms. Goe did not have any facts on hand, but knew they were available. Ms. Goe explained that although the regulations only came into compliance in April 2003, extensive preparation was done beforehand. Providers not only had to incur the expense of producing the notices, but also had to deal with electronic changes in computer systems, including purchasing special software packages. Ms. Goe offered to obtain those figures for REP. MENDENHALL.

REP. MENDENHALL said he recently read that annual healthcare costs rose nine percent nationally last year and wondered how much of that cost could be directly attributed to healthcare providers having to comply with HIPAA. Ms. Goe commented healthcare cost increases have many sources, but offered to get a breakdown of that information for REP. MENDENHALL.

REP. MENDENHALL noticed there are a few areas where Montana's regulations are more stringent than the federal HIPAA regulations and asked Ms. Goe to expand. Ms. Goe stated it only applies to insurance companies and not providers. The notice provision of GLBA is once every 12 months, while the HIPAA provision is longer. The authorization to disclose information must be renewed once every 24 months, while the HIPAA authorization is open-ended. Ms. Goe directed the Committees to differences specified in § 33-19-105, MCA.

Securities Firms—Karen Powell, Deputy Securities Commissioner

Karen Powell, Deputy Securities Commissioner, Montana State Auditor's Office, gave an overview on how the state and federal regulations work in the securities arena (EXHIBIT 5). Ms. Powell submitted her written testimony to the Committees (EXHIBIT 6). Ms. Powell highlighted the OCC proposal, and explained as far as they can tell from the North American Association of Securities Administrators, the proposal will have a very limited affect on state securities regulators and insurance regulation.

SEN. TAYLOR asked Ms. Powell to briefly review the fines collection presented on Attachment 8, noting the fines were very limited until 2003 and then increased dramatically, and the fines

are projected to increase even more in 2004. SEN. TAYLOR also requested Ms. Powell to review the open case numbers. SEN. TAYLOR was curious whether these open cases tie into the fines.

Ms. Powell explained that to date for fiscal year 2004, they have received just over \$4 million from the "research analyst" settlement from multiple cases brought by New York Attorney General Eliot Spitzer. Ms. Powell explained this was an anomaly for the State of Montana. In addition the Piper Jaffray settlement case brought in \$1 million in fines to the general fund. The combination of these two cases increased the fines significantly. In responding to the number of open cases, the downturn of the market in the past year has increased the number of complaints received by the Commissioner of Insurance. In addition, there has been a lot more focus on the activities of the securities industry, which has also resulted in more complaints.

DIFFERENCES BETWEEN FEDERAL AND STATE FINANCIAL INSTITUTION REGULATION

A panel presentation was given by George Doerr, Assistant Regional Director, Federal Deposit Insurance Corporation; Niel Willardson, Senior Vice President, Federal Reserve Bank, Minneapolis; Sue Casey, Helena Field Supervisory Examiner, Federal Reserve Bank; Paul Schumacher, Supervising Examiner, National Credit Union Administration; and Gregory Golembe, Senior Advisor and Director of Banking Relations, Office of the Comptroller of the Currency. The panel discussed the differences between federal and state institutions.

George Doerr addressed the question of, "Who regulates whom?" At the federal level there are no fewer than five agencies supervising banks and credit unions. The OCC regulates the national banks, and state banks are regulated by both the Federal Reserve Bank for member banks and FDIC for non-member banks. Savings and loan associations, as well as credit unions, are also regulated. Mr. Doerr referred to information provided by Pat Murdo to the Committees' members which provided a comprehensive history of banking and bank supervision (EXHIBIT 7). Mr. Doerr provided additional history to the Committees on the history of banking.

Niel Willardson expressed his appreciation to Annie Goodwin, Montana Commissioner of Banking and Financial Institutions. Mr. Willardson submitted his written testimony to the Committees (EXHIBIT 8).

Paul Schumacher, Supervising Examiner, National Credit Union Administration, gave the Committees a brief history of credit unions and the National Credit Union Administration (EXHIBIT 9).

Gregory Golembe, Senior Advisor and Director of Banking Relations, Office of the Comptroller of the Currency, addressed the Committees and focused on the OCC and presented a history of the dual banking system. Mr. Golembe submitted "The Value of the National Bank Charter" (EXHIBIT 10). The OCC is an independent agency under Treasury, but Treasury has no authority over the supervision and regulation of the banking system. The OCC relies on its own funding, and does not go through the federal appropriations process, which enables it to stay out of the political arena.

Questions from the Committees

SEN. TAYLOR was curious if a major bank were to go broke, how it would affect the consumer and what protections are in place to keep that from happening. Mr. Doerr responded that from the bank side, the FDIC insures the banks regardless of size for deposits up to \$100,000, and the federal government stands behind the FDIC. Above the \$100,000 limit, depositors are at risk.

REP. FISHER commented he is consistently receiving credit card applications in the mail and wondered if anyone was addressing this problem. Mr. Willardson responded there is a way to reduce the amount of solicitations received from credit card companies. Mr. Willardson also commented that when more credit is available, it boosts the economy. The downside is the number of personal bankruptcies has risen. From a management perspective, there are relatively few banks involved in credit card operations. Mr. Golembe agreed by stating if a person qualifies for a credit card, there are competing entities who would like to get that business.

Mr. Golembe thanked SEN. ROYAL JOHNSON for his interest in the proposed preemption regulations and reported to the Committees that SEN. ROYAL JOHNSON was diligent in his research.

REP. OLSON wanted to know why the OCC thought it was necessary to issue a preemptive rule. Mr. Golembe responded there is a lot going on right now and banking is very complex. The number of state laws that seem to be impinging on the right of national banks to operate under federal statutes in a uniform manner seems to be accelerating. An increasing number of preemption cases are emerging. Mr. Golembe believes now is a good time to take the next step. The OCC has an administrative responsibility to serve its banks, and they believe they are moving in the right direction.

Concerning national and state charters and banks that cross state lines, REP. McKENNEY wanted to know whether they had a choice as to what kind of charter. Mr. Willardson responded they still have a choice to have either a state or a national charter and, in many cases, they can choose to branch into another state or have a stand-alone state bank under a holding company structure. In the case of a branching situation, there is typically a home-state charter.

REP. McKENNEY inquired about the advantages and disadvantages of regulation. Mr. Willardson responded they try not to sell regulation, but just show the differences, and it comes down to what people are comfortable with.

REP. KEANE asked if there is a difference in cost and whether it was cheaper for a bank to be regulated by the state as opposed to federal regulation. Mr. Golembe was emphatic that it is more expensive to hold a national charter than a state charter.

SEN. MANGAN wanted to know what type of state laws would be preempted and whether it would just be banking laws or whether other laws, such as laws regarding advertising, would also be preempted. Mr. Golembe referred SEN. MANGAN to the comprehensive list of laws contained in Attachment 13 that would be affected. For the most part, the laws that would be preempted focus on the business of banking and the infrastructure.

Mr. Doerr added that state laws that would still apply have to do with contracts, torts, taxation, and zoning. State laws that would not apply have to do with loan terms, state licensing, and imposition of conditions on lending or deposit gathering.

REP. OLSON asked Mr. Golembe about the reference contained in Attachment 10 pertaining to permissible rates of interest based on where the bank is located and not where the borrower is located and why that would make a difference. Mr. Golembe replied the borrower could be anywhere.

REP. McKENNEY asked Mr. Schumacher to explain the differences between a credit union and a bank. Mr. Schumacher explained the primary difference is banks are chartered for profit while credit unions are nonprofit organizations which were chartered to provide a means of savings and credit for people of not-so-great means. Credit unions are required to have a formal membership, such as federal or state employees, and there is generally a common bond among members of a credit union. Credit unions can do almost everything a bank can do; however, most credit unions are not of a size that they can offer large business loans or foreign loans.

SEN. GEBHARDT asked if a bank is being overseen by the OCC, who would oversee a consumer complaint. Mr. Golembe explained the OCC would provide that service for a national bank.

DUAL BANKING SYSTEM -- DEBATE ON THE OCC PREEMPTION PROPOSAL

Neil Milner, Executive Director of the Conference of State Bank Supervisors, gave a Power Point presentation and history of the Dual Banking System (EXHIBIT 11).

Gregory C. Golembe, Senior Advisor for Banking Relations, Office of the Comptroller of the Currency, explained the OCC is confident in its legal position as it moves forward. The conflict between states and the federal government has been ongoing, and they are expecting legal challenges. Mr. Golembe provided an overview of preemption, what the OCC did, and what the OCC did not do. Mr. Golembe suggested preemption is fundamental to the health of the dual banking system. Mr. Golembe explained the essence of the dual banking system as being if a bank has a federal charter, its powers are defined under federal law and its standards of operation are federal. If a bank has a state charter, its powers are defined under state law and its standards are set by the state. Preemption will serve as a governor to ensure separate dual banking systems. Mr. Golembe pointed out that preemption is only for national banks and preemption is not nullification. The OCC has now issued a set of preemption regulations, established new anti-predatory lending standards, and revised the visitorial regulation. Mr. Golembe referred the Committees to a list of comparisons of the OCC's preemption rules contained in Attachment 13.

Questions from the Committees

SEN. TROPILA requested Commissioner Goodwin to respond to the presentations. Commissioner Goodwin commented that she seriously believes that there are major legal problems that exist with the rule adopted by the OCC. Precedent has been established by the U.S. Congress that addresses the ability of states to control the powers of operating

subsidiaries of national banks. There are two cases currently in the federal district court system. Commissioner Goodwin commented the United States has the best banking system in the world. Commissioner Goodwin believes this is due to the close checks and balance system and feels it needs to continue to be a protected industry. Commissioner Goodwin expressed that doing away with the current system of licensing, examining, and supervising the operating subsidiaries of national banks in Montana would do away with a lot of consumer protection currently being afforded to Montanans.

Mr. Milner commented that the two federal court cases are in regard to Wachovia's desire to turn in licenses they have had in Connecticut and Michigan for many years to operate mortgage operations, and now claim they no longer need those licenses.

Mr. Golembe added both of the suits have been in progress for quite awhile and noted they occurred before the preemption ruling was issued.

REP. JENT noticed the OCC had not made a claim that they have completely occupied the field and thought that would be a legal prerequisite to preemption. REP. JENT thought the regulation of the statute itself has so occupied the field that state government no longer has the authority to act. Mr. Golembe directed REP. JENT to look at the list of state laws that would be preempted and the heading that says "generally preempted," and commented there are some circumstances under which preemption may not apply.

Mr. Milner felt the particular issue is whether the OCC can have total authority over operating subsidiaries which, in most cases, have been creatures of the state, meaning they were incorporated by the state and licensed, supervised, and examined by the state. Mr. Milner was told by legal counsel that the language "occupied the field" was not used, and the legal interpretation of the rule revealed an inference that they are occupying the field.

REP. JENT asked about the promulgation of a national standard for predatory lending by the OCC and asked if Mr. Golembe would agree that economies of the fifty states are quite different. For instance, there would not be as much agricultural lending in a state like Connecticut as there would be in Montana. Mr. Golembe agreed situations would vary from state to state. Therefore, REP. JENT felt what would be deemed "predatory" is different according to where a person lives and what they do. Mr. Golembe agreed different people may have different perceptions of what is "predatory." REP. JENT asked if that is why there is a diverse system of consumer protection law throughout the country. Mr. Golembe agreed and added the OCC has no problem with consumer protection laws in the various states and is looking solely at the national banking system and the need for a national set of standards.

Upon request from REP. JENT for comment, Mr. Milner felt one of the strengths of the system is the fact that local concerns and needs can be addressed as they occur. Mr. Milner commented that subsidiaries owned by national banks will not be subject to state regulation. If a subsidiary is subject to state rules and those rules are too onerous, the subsidiary could convert to a national bank. Mr. Milner did not feel this would be good policy. Mr. Milner also expressed concern about the enforcement authority of state Attorneys General for consumer affairs.

REP. KEANE wanted to know if the OCC rules were implemented if it would change the way national banks direct their capital. Mr. Milner replied this is one of their major concerns, and the

largest institutions would convert to national charters leaving the state system only with small community banks to regulate. In addition, there would not be the option of moving back to a state charter once banks convert to a national charter. This could centralize the banking industry in only the largest institutions. This is the direction it is moving now with an increasing percentage of the assets held by fewer and fewer banks. If all the banks move to one charter and one regulator sets all the rules, the result will be "one size fits all."

Mr. Golembe responded that banks make decisions on their charter on a regular basis in determining what their best business approach is. Mr. Golembe did not believe there would be a mass exodus from the state system into the national system, but admitted to REP. KEANE that there was no guarantee that would not happen.

SEN. TAYLOR hypothesized if he filed a complaint with a national bank in Montana, how long it would take to settle the case. Mr. Golembe responded there is a consumer assistance group based in Houston, and it is largely electronic. This group handles about 79,000 cases annually. The average turn around time for these complaints was 60 days, although sometimes the complaints can be handled with a single telephone call.

Mr. Milner said with a state charter, there would be someone local to handle the complaint. Mr. Milner believed the states do a better job of handling consumer complaints.

SEN. TAYLOR asked about the increased costs, and Mr. Golembe replied that regulatory burden adds to those increased costs, and they are looking at ways to reduce regulatory burden. Mr. Milner added there have been increases in federal laws that all institutions have to live with. If the institution has no federal counterpart, it is up to the states to implement federal regulations.

REP. FISHER commented that when legislators run into a problem they cannot understand, they seek assistance from a local state agency. REP. FISHER asked if there is something going on in the banking system that Mr. Golembe knows about that they do not, and that would necessitate such a change in the regulations. Mr. Golembe responded yes and no, stating there has been a significant uptake in actions by state legislatures trying to protect consumers. The OCC is receiving an increasing number of requests for preemption, and it seemed appropriate to consolidate and codify everything that has already been ratified by the courts.

REP. FISHER asked who it was who requested this action and commented it has been the experience in the rural areas that every time a new regulation is passed in Washington that is good for everybody, it does not work well in Montana. Mr. Golembe responded that as responsible administrators of the national banking system, the OCC made a determination that now is the time to take this action and it is not a question of an individual's request.

REP. MENDENHALL felt the issue is complicated, but was interested in exploring why legislatures across the nation are becoming involved in this issue. Mr. Milner replied there have been huge judgments awarded and that abusive practices have lead to the concerns being brought before legislatures. Mr. Golembe expanded by pointing out that predatory lending is not something found in regulated industries like state and national banks. While Mr. Golembe felt egregious behavior should be addressed, that behavior is not occurring in banks.

REP. MENDENHALL asked if this rule went through, would it result in state legislatures feeling the need to respond to regulations that come from OCC, and whether that would force policy at the state level as opposed to the way the Legislature typically does business. Mr. Milner responded that is their primary concern. In responding to the concern of whether this would impact insurance and securities, Mr. Milner's response was "not yet." The litigation history of the OCC has been to carve out an area, and then move forward from there.

REP. OLSON solicited what states can do to get around the OCC rule and protect state-chartered banking. Mr. Milner stressed objections should be filed with the Congressional Delegation and to work with the Commissioner in her ability to protect consumers in Montana. If the rule does become final, a serious determination will need to be made on how to keep the state system competitive.

REP. FISHER moved the Committees write a letter to the Congressional Delegation, if that is the consensus of the Committees and with the approval of Commissioner Goodwin.

CHAIRMAN McKENNEY suggested REP. FISHER withdraw his motion and the floor be opened up for public comment. REP. FISHER withdrew his motion.

PUBLIC COMMENT

Annie Goodwin, Montana Commissioner of Banking and Financial Institutions, respectfully requested the Committees to formalize a resolution opposing the OCC adopted rules and that a letter be formalized on behalf of the Committees addressed to Montana's Congressional Delegation. Commissioner Goodwin emphasized that hearings will be set in the U.S. Congress in both the House and Senate, and she feels input from Montana will be essential.

Cort Jensen, attorney for the Montana Office of Consumer Protection, commented that as they get complaints, they realize consumers have little or no knowledge of whether the banks they do business with are state-chartered or nationally-chartered, and most consumers assume Montana laws apply. In addition, they are concerned with losing the ability to handle consumer complaints and take action if necessary.

Sen. Royal Johnson, SD 5, Billings, expressed his pleasure in the Committees taking an interest in this issue and organizing the meeting. Sen. Johnson felt there needs to be protection in every industry. Sen. Johnson spoke about the current situation between Piper Jaffray and U.S. Bank and how shareholders only received one share in Piper Jaffray for each one hundred shares of U.S. Bank. Sen. Johnson did not believe it is a matter of whether the rule should be in effect, but rather how to stop the rule from going into effect. Sen. Johnson hoped the Committees' members will inform other legislators about what they have learned in the meeting.

REP. FISHER moved the Committees address a letter to the Congressional Delegation voicing objections to the regulation based on the information heard today and the recommendation of Commissioner Goodwin.

REP. JENT seconded the motion and suggested the authoring and editing should come from Commissioner Goodwin for the Committee Chair's signature. REP. JENT felt the tone of the

letter should state the Committees opposed the adoption of the OCC rules for the reasons expressed by Commissioner Goodwin in her testimony.

SEN. MANGAN commented that just because a court will uphold a decision does not make it right. SEN. MANGAN agreed that people in Montana believe if it happens in Montana, it's covered under Montana law. SEN. MANGAN would like the letter to reflect this is a citizen legislature elected on behalf of their constituents, and they would like the OCC and the government to take a look at what is good for the people of Montana, and let the legislators make the decision.

CHAIRMAN McKENNEY suggested Pat Murdo draft the letter on behalf of the Committees in consultation with Commissioner Goodwin. CHAIRMAN McKENNEY explained the motion would need to be voted on individually by the Economic Affairs Committee and the State Administration and Veterans' Affairs Committee.

SEN. TROPILA agreed the State Administration and Veterans' Affairs Committee would vote on the motion at its afternoon session.

SEN. TAYLOR commented he would support the motion, but felt he did not have all the facts, particularly the cost factors.

REP. KEANE said he would like the word "vehemently," or a similar word used to oppose the rule.

REP. FISHER requested approval of his motion by a show of hands.

A show of hands by the Economic Affairs Committee and a show of hands by the State Administration and Veterans' Affairs Committee showed unanimous support for the motion.

REP. McKENNEY referred to the vote as a straw poll and noted that each Committee would vote formally in the afternoon.

ADJOURN TO LUNCH AND RESPECTIVE COMMITTEE MEETINGS

There being no further business to come before the Committees, the meeting adjourned at 11:50 a.m.

January 23, 2004 -- afternoon session

Rm. 137, Capitol Building

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STATE ADMINISTRATION AND VETERANS' AFFAIRS COMMITTEE MEMBERS PRESENT

SEN. KEITH BALES
SEN. KELLY GEBHARDT
SEN. JOSEPH TROPILA
SEN. MICHAEL WHEAT

REP. STANLEY FISHER
REP. LARRY JENT
REP. RALPH LENHART
REP. BERNIE OLSON

STAFF PRESENT

DAVE BOHYER, Research Director
JOHN MacMASTER, Staff Attorney
CYNTHIA A. PETERSON, Secretary

AGENDA & VISITORS

Agenda, ATTACHMENT 1
Visitors' list, ATTACHMENT 2

COMMITTEE ACTION

- ! SEN. TROPILA was elected Chairman and REP. JENT was elected Vice Chairman
- ! Minutes of the previous meeting were approved.
- ! The Committee will send Governor Martz a letter suggesting that CHAIRMAN TROPILA be appointed as a nonvoting member of the Montana Board of Veterans' Affairs.
- ! CHAIRMAN TROPILA appointed a four-member subcommittee to research recruiting and retention concerns of the Montana Highway Patrol and to make a proposal for consideration by the full Committee. Rep. Fisher, Chairman, Rep. Jent, Rep. Lenhart, Sen. Gebhardt.
- ! A letter will be drafted in conjunction with the Economic Affairs Interim Committee to the Congressional Delegation voicing objections to the OCC regulation, based on the information heard at the committees' meeting and the recommendation of State Banking Commissioner Annie Goodwin.

CALL TO ORDER AND ROLL CALL

The meeting reconvened at 1:17 p.m. and was called to order by State Administrative and Veterans' Affairs Chairman, Sen. Joe Tropila. The secretary noted the roll (ATTACHMENT 3).

ELECTION OF OFFICERS OF THE STATE ADMINISTRATION AND VETERANS' AFFAIRS INTERIM COMMITTEE

SEN. JOSEPH TROPILA was elected Chairman of the State Administration and Veterans' Affairs Interim Committee by Roll Call Vote (ATTACHMENT 4). REP. JENT was elected as Vice-Chairman by Roll Call Vote (ATTACHMENT 5).

The minutes of the last meeting of the State Administration and Veterans' Affairs Committee were accepted unanimously.

MONTANA BOARD OF VETERANS' AFFAIRS

Lt. Col. Joe Foster, Administrator, Montana Board of Veterans' Affairs, stated the new Board of Veterans' Affairs has met, has hired Veterans' Service Officers in Butte and Great Falls, and is in the process of conducting interviews for the new Havre office. It is anticipated the Havre office will be in operation by the end of February. Lt. Col. Foster explained the services provided by the Veterans' Service Officers are very complex and wide-ranging, and submitted written statistics and category definitions to the Committee (EXHIBIT 1). Lt. Col. Foster also reviewed Veterans' Services Field Office Claims Statistics (EXHIBIT 2). Lt. Col. Foster submitted two unsolicited letters from veterans which show how Veterans' Services impact veterans and their families (EXHIBIT 3). Lt. Col. Foster identified several legislative interests, including a long-range building program which will seek authorization to build a Western Montana Veterans' Cemetery in Missoula. They will also seek authority to build a columbarium at Fort Harrison. Lt. Col. Foster also reported on a partnership with the Fort Harrison V.A.

Mr. Donald Bogut, Chairman of the Montana Veterans' Affairs Division, submitted a list of members of the Board and Executive Committee of the Montana Board of Veterans' Affairs (EXHIBIT 4). Mr. Bogut introduced to the members of the Committee the members of the Veterans' Affairs Board. Mr. Bogut submitted a list of the Board's goals, priorities, and current initiatives (EXHIBIT 5).

SEN. WHEAT commended and thanked the members of the Board for donating time to Veterans stating it was a worthy cause. In turn, each of the members of the State Administration and Veterans' Affairs Interim Committee introduced themselves, noting their own military experience.

Mr. Dan Antonietti, representing the Veterans of Foreign Wars (VFW), thanked the Committee and submitted a list of the VFW's priority goals for 2004 as (EXHIBIT 6). Mr. Antonietti reported the VFW is very underfunded in taking care of Veterans and this has become their top priority. Mr. Antonietti will be making a presentation in Washington D.C. to the Joint Session of the Veterans' Affairs Committee and will bring back a copy of his presentation.

Mr. Hal Manson, Legislative Chairman for the American Legion for the past 20 years, felt the work done in the 2003 Legislative Session was very beneficial to Montana veterans and will enable the Veterans' Affairs Division to fund projects that must be completed to assist Montana's veterans.

Mr. Mike Hampson, President of Vietnam Veterans of America for the State of Montana, expressed his delight with legislation passed in the 2003 Legislative Session. Mr. Hampson submitted a redacted version of the Final Report resulting from the inspection at the Fort Harrison Hospital (EXHIBIT 7). Mr. Hampson felt strongly that because Fort Harrison has agreed to reimburse veterans for any outside medical treatment they had to seek, they are admitting they were wrong.

Mr. Keith Heavy Runner, Tribal Veterans' Representative for the Blackfeet Nation, stated their goal is to help the veteran who cannot help himself, and they focus specifically on homeless veterans. Mr. Heavy Runner testified homeless veterans are a problem in Montana. Mr. Heavy Runner suggested thinking about how the State of Montana will best be able to help men and

women returning from Iraq with Post-Traumatic Stress Disorder (PTSD) and the alcohol and drug-related problems they will face. Mr. Heavy Runner remembered PTSD suffered by Vietnam veterans and noted today there are tools available to help. Mr. Heavy Runner would like to see a declaration by the State of Montana that they support the troops in Iraq.

SEN. GEBHARDT recalled SEN. WHEAT'S Resolution in the 2003 Legislature supporting the troops.

PUBLIC COMMENT RELEVANT TO THE PURVIEW OF THE SAVA

Mr. Ron Banks, Hospital Service Coordinator for the DAV Van Transportation Program, transports veterans to and from medical treatment with 26 vans staged around Montana. The number of veterans transported has risen from an average of 380 a month to 795. Mr. Banks submitted a copy of the DAV Van Schedule (EXHIBIT 8).

Mr. Bob Pavlovich, representing Butte America, spoke to the Committee about the decrease in number of Veterans' license plates being purchased. Mr. Pavlovich suggested offering corporate Veterans' plates and asked the Committee to make this proposal to the Division of Motor Vehicles. Mr. Pavlovich is aware of a discrepancy that exists in Blue Cross Blue Shield paying for prescription drugs received at Fort Harrison, and asked the Committee to investigate. Mr. Pavlovich expressed concerns about the lack of a nursing home in southwest Montana, and thought the Committee might want to consider proposing a two cent tax increase on cigarettes to build a rest home in southwest Montana. Mr. Pavlovich suggested using an existing facility such as Warm Springs or Galen State Hospital to house a nursing home.

Mr. Alan Armstrong, President of Chapter 626, Vietnam Veterans of America, suggested citizens of Montana should make an effort to welcome home veterans from Iraq and Afghanistan and thank them for serving.

Mr. Joe Walsh, a Marine Corps veteran from Bozeman, Montana, had questions regarding positions on the Board of Veterans' Affairs and the obligation of the Board to fill positions in accordance with legislation passed in 2003. Mr. Walsh wondered about the development and implementation of an information and communications program to keep veterans and their families informed. In particular, Mr. Walsh would like to see the board immediately address the communications program and services to homeless veterans. Mr. Walsh felt non-duplication of services and less confusion for clients and workers, improved communications, ease of serving special populations, improved public image, and enhanced agency and community support were some of the outcomes he expected to see from the new legislation. A communication system which includes regular information sharing, as well as planned discussions and a sense of common ground, will result in a sense of ownership in the new Board. Mr. Walsh closed by saying he would like to see these issues and the questions he has raised addressed as soon as possible.

SEN. WHEAT suggested Mr. Walsh put all his comments and questions into a written form and submit it to the Board of Veterans' Affairs and request them to address his issues and questions.

Mr. William L. Smith, a Gulf War veteran of Helena, Montana, submitted written testimony regarding Dr. Neelma Pradham, appointed Chief of Psychiatry at Fort Harrison (EXHIBIT 9). Mr.

Smith was concerned about veterans returning from Afghanistan and Iraq and the treatment they will receive for PTSD.

Mr. Mike Hampson, President of Vietnam Veterans of America for the State of Montana, submitted a follow up letter from William Norris, a counselor at Fort Harrison, regarding Dr. Pradham (EXHIBIT 10). Mr. Hampson relayed information he received from Gulf War veterans being treated at Walter Reed Hospital that the hospital is saturated with wounded from the war in Iraq and Afghanistan. Mr. Hampson also reported there were patients staying in hotels while awaiting treatment or therapy. Mr. Hampson felt veterans from Montana should first be the responsibility of Montana.

Mr. John Peterson, Fort Harrison Medical Center, informed the Committee that there has been a recent change in management at Fort Harrison and Joe Underkofler, the previous director of both the Veterans' Health Administration and the Veterans' Benefits Administration, will not be primarily concerned with the Health division. Mr. Douglas Wadsworth will now be the Regional Office Director. Mr. Peterson viewed this as a positive move since it will help alleviate some of Mr. Underkofler's workload. Mr. Wadsworth and people in Washington are actively pursuing the possibility of building a separate regional office on the campus at Fort Harrison. Mr. Peterson felt this would enable them to better serve Montana veterans. Mr. Peterson spoke about a task force consisting of representatives from both the Montana Veterans Affairs Division and the U.S. Veterans' Benefits Administration in dealing with the rising number of appeals. Mr. Peterson explained the appeals ratio is the number of appeals versus the number of claims. The appeals ratio in Montana significantly exceeds the national appeals ratio. Independent reviews of rating decision quality at Fort Harrison revealed Fort Harrison ranks number one in quality of decision making in fiscal year 2002, and second in the nation in 2003. Therefore, Mr. Peterson did not feel it was directly related to the quality of decisions rendered; however, Fort Harrison believes service officers have played a central role in contributing to the high local appeals ratio. Service officers play a central role in determining whether a VA decision is accepted as fair and accurate, is reopened or considered based upon additional evidence or facts not previously before the decision maker, or whether the case is appealed. Mr. Peterson felt that appeals are filed too often either by the service officer or by a claimant in consultation with a service officer when another course of action would be more realistic. This has resulted in a significant backlog of appeals pending review at Fort Harrison, and currently they have 600 appeals pending. Similarly sized offices elsewhere are experiencing a backlog of fewer than 300 appeals. Fort Harrison has managed to maintain this steady number of appeals, while nationwide the number has risen dramatically. Mr. Peterson explained it takes them several months, or more, from the time a Notice of Disagreement is filed until a local appellate decision is rendered. Mr. Peterson felt that because service officers play a major role in creating the backlog, they should play a significant role in reducing the backlog. The joint appeals focus group idea originated with the Montana Veterans' Affairs organization, and they are encouraged that there appears to be a genuine commitment from both the VA and Montana Veterans' Affairs to change the way they have historically perceived the shared goal of improving service to all veterans in Montana. Mr. Peterson admitted the VA must adhere to laws and regulations, and sometimes claimants may disagree. As part of the focus group process, the VA and the Montana Veterans' Affairs have agreed to disagree on some issues, but both organizations are working hard to minimize those instances and to improve the overall services to veterans. Mr. Peterson also felt the differences experienced by the two organizations are simply a matter of degrees. Mr. Peterson felt that by dispelling misconceptions, improving communication, and providing reasonable alternatives and

assistance, the VA can help other service organizations become more efficient and effective advocates, which will result in better service being provided by both organizations.

General John Prendergast, Department of Military Affairs, Montana National Guard, has just returned from Fort Carson and informed the Committee that the same situation on the east coast, as depicted by Mike Hanson, exists at Fort Carson. Individuals returning from Iraq and Afghanistan with injuries are in medical holding companies while awaiting medical care. Gen. Prendergast has met with other generals and their suggestion is going to be to let the National Guard manage these people back in their own states. Gen. Prendergast was told to look to Montana's Congressional Delegation for help to solve this problem.

SEN. BALES inquired whether Gen. Prendergast had spoken with anyone in the active military and whether they had taken any steps to solve this problem. Gen. Prendergast relayed he has been told there is no room and there is no money. In addition, so many soldiers have been called to active duty for this war, they were not prepared for the number of injured that would be returning. Gen. Prendergast would like the VA to address the soldiers and their families when they are being mobilized, so they understand what their VA benefits are.

SEN. WHEAT asked how many Montanans currently in the Middle East are casualties. Gen. Prendergast replied Montana has been fortunate and only two Montanans have been injured, and one soldier from Big Fork was killed. SEN. WHEAT asked if Fort Harrison has the capability to handle Montana's casualties. Gen. Prendergast felt Fort Harrison would be the best place for returning soldiers. SEN. WHEAT wanted to know specifically what the State Administration and Veterans' Affairs Committee could do to help Gen. Prendergast get Montana's wounded soldiers back to Montana. Gen. Prendergast suggested writing a letter of support to the Congressional Delegation.

Mr. John Peterson suggested the VA is prepared to address any medical issue and treat returning veterans. From the benefits end, it is an issue of coordination, because the VA does not have any advance notice that a soldier is going to be released to come home.

REP. FISHER commented that part of the problem is due to the rise and fall of Washington, D.C., toward their responsibility to maintain a standing and satisfactory army. REP. FISHER'S experience is that when they needed people in the past and they provided universal military training, soldiers were available, and so was the infrastructure. REP. FISHER asked if Gen. Prendergast was aware of any universal military training being discussed to help avoid surges and flows in the military. Gen. Prendergast replied he is taking a letter back to the Congressional Delegation on this issue as well since they are planning on reducing the staff for Montana's selective service.

SEN. GEBHARDT spoke of his son's injuries received in Iraq and his lack of medical treatment.

Mr. Alan Armstrong, President of the Local Chapter of Vietnam Veterans of America, stated the issue of returning veterans' medical care and benefits will take a much more personal note than it has in the past.

Mr. Mike Hampson submitted a list of VA Outreach Clinics that could provide medical treatment to returning veterans (EXHIBIT 11).

SEN. WHEAT stated the new Montana Board of Veterans' Affairs needs someone from the State Administration and Veterans' Affairs Committee to serve as a non-voting member on its Board. SEN. WHEAT moved the Committee send Governor Martz a letter suggesting that CHAIRMAN TROPILA be appointed. The motion carried unanimously.

SEN. WHEAT informed the Committee that Gen. Prendergast will be sending a report to the Committee about the current situation concerning the medical treatment being received by veterans returning from the Middle East. SEN. WHEAT would like the State Administration and Veterans' Affairs Committee to prepare a letter to the Montana Congressional Delegation to lend support to the findings and recommendations of Gen. Prendergast. The Committee will need to address SEN. WHEAT'S suggestion upon receipt of the report from Gen. Prendergast.

REP. OLSON believed Montana Veterans should be returned to Montana for immediate medical treatment. REP. OLSON would like this stipulation included in any letter to Washington, D.C.

REP. LENHART remembered this issue being raised before and recalled funding and the method of reimbursement of local hospitals as problems that precluded them from taking this action.

CHAIRMAN TROPILA agreed, but clarified the veterans would be going into local military hospitals, so there would not be any funding.

REP. OLSON commented it would be political suicide for a member of Congress to oppose funding for providing medical treatment for veterans. REP. OLSON would like to see the Committee push this issue, and suggested Gen. Prendergast take the idea with him to Washington.

SEN. WHEAT explained Gen. Prendergast would be leaving in a few days and felt the Committee could make more of an impact if they waited for the report from Gen. Prendergast and then wrote a letter to the Montana Congressional Delegation.

ADMINISTRATIVE RULES REVIEW

John MacMaster, Staff Attorney, Legislative Services Division, addressed the Committee about a rule promulgated by the Public Employees' Retirement Board (PERB) and the Interim Committee's direction to Mr. MacMaster. Mr. MacMaster has reviewed the Minutes on SB 145 (2003) from the House and Senate Standing Committee Hearings and Executive Action taken on the bill. Mr. MacMaster explained there are two types of service which could be purchased. The first is service as a volunteer in a United States Service Program, such as the Peace Corps. The second type is successful completion of a term of service in a national service position as described in the National Community Service Act of 1990. Mr. MacMaster felt the new administrative rule adopted by the PERB conflicts with the statute. Mr. MacMaster felt the new rule limits the United States Service Program to only the Peace Corps, and reported the PERB is unwilling to define the term "United States Service Program." Mr. MacMaster would like to see the term defined, rather than be amended out of the statute. PERB has been unable to find any United States Service Program other than the Peace Corps. Mr. MacMaster explained that, under the rule, there also needs to be a predetermined length of service agreed to up-front. Absent that agreement, PERB will not allow the purchase of services. Mr. MacMaster disagrees

with this interpretation since a predetermined length of service is not specifically required in the statute. In addition, it only applies to service under the National Community Service Act of 1990. Mr. MacMaster submitted a memorandum dated September 17, 2003, to the Committee (EXHIBIT 12.) Mr. MacMaster's review of the Minutes from the House and Senate did not shed any light on the issue.

Melanie Symons, Legal Counsel, Public Employee Retirement Administration, Montana Department of Administration, took exception to one comment by stating that the rule specifically requires a specific term of service for National Community Service and the Peace Corps does not have that requirement. Successful completion only applies to the National Community Service Act. Ms. Symons was unable to locate any other programs that would fall under the United States Service Act. Ms. Symons reviewed the minutes and noted there was a discussion by the Senate State Administration Committee which indicates the Committee knew there were other types of services that were not included under that Act.

Ms. Symons clarified for SEN. BALES that Americorps is covered under the National Community Service Act, and the Peace Corps is not. The Peace Corps falls under "other similar United States Service" as a catch-all. PERB was unable to find another United States Service Program that did not fall under the National Community Service Act.

REP. FISHER asked specifically what the Committee could do to remedy the situation. Mr. MacMaster remembered past procedures where the Administrative Code Committee (ACC) would review rules and request that rules be amended or repealed if necessary. Occasionally, the ACC would draft a committee bill specifically directing the agency on how the rule should be amended and the exact reasoning for the amendment. Mr. MacMaster suggested the State Administration and Veterans Affairs Interim Committee could take the same direction.

SEN. BALES wondered if anyone had sought comment from Sen. Bohlinger on the rule. Mr. MacMaster had spoken with Sen. Bohlinger, who had admitted that at no point in the legislative process does he remember anyone discussing what the words "volunteer of the United States Service Program" meant or were intended to mean. In addition, term of service was never discussed. In Mr. MacMaster's mind, "successful completion of a term of service" does not contemplate a rule saying when a person begins a term of service, they need to sign up for a specific period of time.

Ms. Symons explained PERB sent a letter to Sen. Bohlinger regarding their adoption of the new rule, and did not receive any input from Sen. Bohlinger. Ms. Symons further explained that "successful completion of a term of service" is in the law in Mont. Code Ann. § 19-3-514 and is not something PERB added to its rule.

REP. OLSON inquired whether the Committee could accept the definition of the legislation as interpreted by the rules and whether that would end the problem. Mr. MacMaster stated that if the Committee chooses to do nothing, it need not make a motion. If the Committee decides the PERB is correct, the Committee could make a motion to concur with the rule and the PERB's interpretation of the statute; however, that will not help if the rule is challenged in court. Mr. MacMaster also suggested Sen. Bohlinger may want to discuss the matter with PERB and amend the bill next session.

REP. OLSON commented that they are aware there is a problem, but nobody knows how to resolve the problem. Mr. MacMaster agreed with Ms. Symons' analysis that people who work in this field have not been able to locate any other United States Service Programs other than the Peace Corps. Therefore, no one from those programs, if they do not exist, will be coming forward to purchase this service. If this is the case, Mr. MacMaster was curious why PERB would have the rule. If there is a problem with the rule, it could be resolved in other forums. REP. OLSON stated if the Committee chooses to do nothing, the issue will hang in limbo, and he would like to see the Committee make a decision.

Mr. MacMaster explained that the language "such as the Peace Corps" indicates the Peace Corps is not the only United States Service Program contemplated by the bill. However, the PERB cannot find another organization other than the Peace Corps that would be included. Mr. MacMaster did not necessarily feel that was a problem since if other organizations do exist, the PERB is not going to let them purchase the service. Mr. MacMaster has read the National and Community Service Act, and it does not require someone sign up for a specific term of service. Mr. MacMaster felt many times people sign up and cannot specify the amount of time, because they cannot determine when their services will no longer be needed.

REP. JENT commented the Committee's action should be inaction and if it is not a big problem, the Interim Committee should not attempt to fix it.

REP. FISHER recalled the problem as being if there was no defined period of service, it opens the door for firefighters. REP. FISHER agreed the Interim Committee should do nothing.

UPDATES REQUESTED BY SAVA MEMBERS

! Brett Dahl, Administrator, Risk Management and Tort Defense Division, Montana Department of Administration

Brett Dahl, Administrator, Risk Management and Tort Defense Division, explained an audit performed last year raised concern that the Division's rates or fees were not commensurate with its costs. Mr. Dahl explained that the Joint Subcommittee on General Government and Transportation will be reviewing this issue. Mr. Dahl offered to answer any questions from the Interim Committee.

SEN. GEBHARDT wanted to know how short the Division was of being actuarially sound. Mr. Dahl explained that when the audit was conducted, the auditors did not necessarily come up with a number, but expressed concern that a deductible reserve was not established or reserve funds to cover large and catastrophic settlements and judgments. Mr. Dahl provided an analogy that if everyone went to the bank at the same time and withdrew their money, there would not be any money left. However, the timing of these claims and lawsuits is such that they come due on different dates.

The Interim Committee decided to let the Subcommittee address this issue.

! Col. Shawn Driscoll, Chief, Highway Patrol Division, Montana Department of Justice

Col. Shawn Driscoll, Chief of the Montana Highway Patrol, gave a Power Point presentation on Montana Highway Patrol (MHP) attraction, recruitment, and retention of officers (EXHIBIT 13). Col. Driscoll reminded the Committee members that in September he had presented the results of a review of MHP, which was performed by an outside agency. While some of the issues raised by the study have been addressed, the MHP was unable to address some of the issues due to lack of funding. Col. Driscoll stated MHP officers are spending less time than ever on the roads in Montana. Col. Driscoll identified salary as the major reason they are unable to retain officers. In addition, vacancy savings has adversely affected MHP by increasing overtime and delaying response time. Col. Driscoll felt the MHP has not done well in recruiting minorities, including Native Americans and females. The MHP has lost five officers in the last couple of years to employment opportunities with the Kalispell Police Department. Col. Driscoll submitted a Wage Comparison Sheet to the Interim Committee (EXHIBIT 14). In looking at wages for new officers, Butte Silver Bow County is the only county with starting pay less than MHP. However, Col. Driscoll quickly noted Butte-Silver Bow provides a substantial pay increase to its officers within the first year and rapidly surpasses MHP. Col. Driscoll was discouraged because MHP is expending time and money training new officers only to have them hired away from them by other law enforcement agencies. Col. Driscoll identified solutions as removing vacancy savings, increasing salaries, and increasing the number of officers. Col. Driscoll reminded the Interim Committee that a reduction in the number of citations impacts general fund revenue.

SEN. BALES requested figures on what vacancy savings would cost and if Col. Driscoll could estimate what it would cost to bring starting and hourly wages into line with other law enforcement agencies. Col. Driscoll replied vacancy savings per year is \$552,000, and estimated it would take \$1.8 million in salary increases to bring MHP salaries up to the average level paid by other law enforcement agencies.

REP. FISHER sat on the Appropriations Committee the last three sessions and has reviewed the budget of the Department of Justice. REP. FISHER recalls raising MHP salaries two sessions ago, which brought the officers' salaries up to the same level as Montana's game wardens. REP. FISHER believed problems with the MHP are more than simply salary. REP. FISHER requested a subcommittee be appointed, consisting of four members, two from eastern Montana and two from western Montana, to sit down with MHP to identify what it will take to make the MHP what it was 35 years ago.

REP. LENHART commented about his experiences riding patrol with a MHP officer and what a difficult job the officers have and how officers put their life on the line every time they stop a vehicle. REP. LENHART felt the salary difference is shameful and volunteered to serve on a subcommittee.

In response to SEN. WHEAT'S inquiry, Col. Driscoll stated he would like to double the number of officers, but realizes that would be unrealistic. SEN. WHEAT commented he disagrees with forming a subcommittee and believes the next time the Legislature meets, they need to find a way to fund the MHP's needs. SEN. WHEAT commented they already know what the problem is, and they know what they have to do to solve it.

REP. FISHER agreed, and stated when the MHP comes before the Appropriations Committee, if they have a complete package, which has already been agreed to by the State Administration and Veterans' Affairs Committee, it will be easier to address.

REP. JENT felt it necessary to have a process, whether through a subcommittee or otherwise, which has the ultimate goal of having a reasonable increase in funding and officers to present in the Governor's Executive Budget. REP. JENT was not sure how the activities of an interim committee would get into the Executive Budget and requested assistance from staff. REP. JENT felt strongly that items in the Executive Budget stand a much better chance of passing.

SEN. BALES wanted to know if Col. Driscoll anticipated having discussions with the administration about getting his budget request into the Executive Budget. Col. Driscoll replied they have had discussions, and he is looking to this Interim Committee for receptiveness. Col. Driscoll did not ask for increases in the past session because of the money problems already facing the Legislature.

REP. FISHER stated that getting the request into the budget program would not be a problem if a proposal was agreed to by the Interim Committee. REP. FISHER suggested that stretching the requested increases over a number of years would enable the MHP to see the light at the end of the tunnel. REP. FISHER did not feel money was the only issue responsible for the retention difficulties experienced by MHP.

Mr. Larry Fasbender, Montana Department of Justice, responded to CHAIRMAN TROPILA stating last year MHP did not request any increases either for pay raises or additional officers. A protective pay plan was passed a couple of sessions ago which gave a pay increase. Mr. Fasbender felt the lack of pay increases has been experienced by all of state government, but is more evident with the MHP and creates more of a problem. According to Col. Driscoll the approximate cost of training a MHP officer is about \$6,000 to \$6,500. Col. Driscoll pointed out that the cost of providing instructors, training with officers, and other costs must be factored in. Other costs can be incurred while officers are still learning during the first couple of years. REP. FISHER commented that the Kalispell police chief said an MHP officer with one year of experience was worth \$20,000 more than a new hire who had not graduated from the Law Enforcement Academy.

REP. FISHER moved that a four-member subcommittee be appointed, consisting of two Senators and two Representatives of the appropriate parties, to research this issue before the next meeting and that a sufficient amount of time be allocated to bring the matter forward. The motion carried unanimously.

Upon request from SEN. GEBHARDT, Col. Driscoll informed the Interim Committee the MHP's total annual personnel services budget is approximately \$11 million.

OVERVIEW OF BANKING AND FINANCIAL INSTITUTION REGULATION

In accordance with the committee meeting held jointly with the Economic Affairs Interim Committee, REP. FISHER moved the Committee address a letter to the Congressional Delegation voicing objections to the OCC regulation based on the information heard today and the recommendation of Commissioner Goodwin.

ADJOURN

There being no further business, the Committee adjourned at 4:30 p.m.

NOTE: Following adjournment, CHAIRMAN TROPILA appointed Rep. Fisher, Chairman, Rep. Lenhart, Rep. Jent, and Sen. Gebhardt to the subcommittee to examine recruiting and retention issues with MHP.

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