



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

The State Administration and Veterans' Affairs Interim Committee's Subcommittee on Montana Highway Patrol Recruitment and Retention

MINUTES

April 13, 2004

Room 102, State Capitol
Helena, Montana

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.

COMMITTEE MEMBERS PRESENT

REP. STANLEY FISHER, Chair

SEN. KELLY GEBHARDT

REP. LARRY JENT
REP. RALPH LENHART

STAFF PRESENT

DAVE BOHYER, Research Director
JOHN MACMASTER, Staff Attorney
DAWN FIELD, Secretary

VISITORS' LIST & AGENDA

Visitors' list, Attachment #1.

Agenda, Attachment #2.

COMMITTEE ACTION

The Subcommittee agreed to recommend to the full SAVA Committee eliminating the application of vacancy savings to the MHP, the establishment of a Montana law enforcement salary index to be used as a tool to recruit and retain MHP officers, and a list of options, ranked by order of preference of the Subcommittee, to provide adequate sustainable funding to support the MHP staffing and pay levels contemplated under the Subcommittee's recommendation.

CALL TO ORDER AND ROLL CALL

REP. FISHER called the meeting to order at 8:02 a.m. and the secretary noted the roll; Rep. Jent arrived shortly after the meeting began.

MONTANA HIGHWAY PATROL RECRUITMENT AND RETENTION ISSUES

Colonel Randy Yaeger, Chief, Montana Highway Patrol (MHP), submitted for the record:

- EXHIBIT #1 - a printed narrative of his Power Point presentation.
- EXHIBIT #2 - a printed copy of his Power Point presentation slides.

Col. Yaeger read his testimony (EXHIBIT #1) as he guided the Subcommittee through the Power Point presentation (EXHIBIT #2). He said the recruitment and retention issues facing the MHP could be traced to three fundamental areas:

- legislatively mandated vacancy savings;
- low officer pay; and
- inadequate Division staffing.

Col. Yaeger submitted several proposed solutions and recommendations the Montana Highway Patrol that would help alleviate the Division's difficulties. Possible funding sources for the proposed solutions included:

- an increase in the gas tax;
- elimination of the dyed diesel program;
- an increase in the vehicle registration fees;
- an additional allocation from the existing gas tax;
- an increase in funding from the general fund;
- a fee per vehicle for each motor vehicle liability insurance policy, either newly written or renewed; or
- a new tax on beer and wine sold in Montana.

After an explanation of all proposals, Col. Yaeger reported the proposal most favored by the MHP is the vehicle liability insurance policy surcharge. He emphasized that this proposal would have no fiscal impact on either the gas tax or the general fund and estimated it would generate over \$8 million annually.

Col. Yaeger summarized the MHP's position by stating:

- The Patrol needs immediate relief from vacancy savings and urged the elimination of this requirement for the MHP.
- Legislation must be developed to establish the eight-county "Montana Law Enforcement Salary Index" and the legislation must include a legitimate, continuing source of funding to support the index.
- The positive balance of the fund must be protected by legislation to be used only by the Patrol for an increase in the number of uniformed officers.

REP. FISHER asked how the elimination of vacancy savings would benefit the Patrol. Col. Yaeger explained that current law requires the MHP to hold its staffing level at 96%. The money saved by the vacancies is allocated to the special revenue gas tax account. Under the MHP proposal, that money would remain in the MHP budget and allow the Patrol to be funded at 100%, which means an additional 12 to 14 officers could be hired through this measure alone.

REP. LENHART asked if a driver can be prevented from dropping insurance. Col. Yaeger said "no", and that, under current law, there is little that can be done. He suggested developing a data base which could be used to track policy information. REP. JENT said in the 2001 legislature, a bill was introduced to develop such a data base. REP. LENHART said the insurance industry opposed this bill and it did not pass. REP. JENT said insurance companies should view this type of proposal as a positive to the industry because it would increase business.

REP. FISHER asked if the proposed solutions were long term solutions or if this would become an issue again at a future date. Col. Yaeger replied that it was his opinion that the proposals were sustainable for the foreseeable future.

SEN. GEBHARDT said he was concerned that if the Highway Patrol implemented a pay increase as recommended by Col. Yaeger, the counties would start losing law enforcement personnel. Col. Yaeger said the MHP salary increase would be determined by the eight-county salary index and would not surpass the average county pay level determined by the salary index. Instead, use of the index would allow MHP salaries to increase at the same rate as the counties' rates and would help the MHP to be competitive.

REP. FISHER asked where the MHP planned to recruit for new officers. Col. Yaeger said recruitment is a nationwide problem but that he was confident Montana could attract highly qualified individuals to the MHP, if the pay was competitive.

REP. JENT said he would like recruitment efforts to focus on young people at the start of their careers, such as Montana high school graduates and college students, versus older officers. Col. Yaeger said a strategy is in place to accommodate this. The MHP conducts one intensive 16-week training academy each year specifically for new recruits. An equivalency academy is being developed to be offered every other year for experienced officers who wish to work for the MHP. This academy will provide six weeks of training specific to the Montana Highway Patrol to these experienced officers and will create a balance of attracting new as well as experienced officers to the ranks.

REP. FISHER asked what educational requirements are necessary for a highway patrol officer. Col. Yaeger said the current requirement is a high school degree with two years' college equivalency or experience. The officer must be 21 years of age since he or she is required to carry a weapon and may have to deal with alcohol and drug issues.

REP. FISHER asked why the MHP is reluctant to consider the beer and wine tax. Col. Yaeger said the primary reluctance is that any increase in consumption of these substances benefits the agency, which runs counter to its mission of trying to reduce alcohol consumption on the

roads. REP. FISHER said he thought consumption would continue to rise and it would be a good source of revenue for the MHP.

LEGISLATIVE AUDIT DIVISION PERFORMANCE AUDIT PREVIEW--MONTANA HIGHWAY PATROL

Andrew Geiger, Legislative Audit Division (LAD), distributed the preliminary findings of the performance audit of the MHP (EXHIBIT #3). REP. FISHER asked Mr. Geiger to place the full Committee and Subcommittee on the mailing list to receive a full copy of the performance audit. Mr. Geiger said the audit encompassed all duties and activities of the Highway Patrol Division and focused on compliance with statutory guidelines, effectiveness of agency mission and goals, quality of management initiatives, and agency impacts to the public. He discussed five specific findings:

- The turnover MHP is experiencing has a potential impact on operational effectiveness given the types of individuals who are leaving.
- The cost of hiring a replacement officer is estimated to be approximately \$25,000.
- MHP is losing officers to local agencies in the state.
- The turnover rate is accelerating, particularly in the last five years.
- Salaries for new MHP officers lag behind those of a representative sample of counties.

REP. FISHER asked if the LAD review indicated that the elimination of vacancy savings would positively impact the MHP. Mr. Geiger said vacancy savings has had an effect and that the full report would have more detailed information.

REP. LENHART asked how many patrol officers retire each year and if retirements have negatively impacted the Division. Col. Yeager said the MHP loses about 7-8 officers per year to retirements and that it is an issue which negatively impacts the Patrol.

REP. JENT asked if the audit had calculated how much overtime or comp time is being paid out due to vacancy savings. Mr. Geiger said that data was being compiled by the LAD but the final numbers were not available at this time. He said he didn't know if LAD would be able to definitively identify an amount but that the number should be fairly accurate.

REP. FISHER asked Mr. Geiger to attend the next full State Administration and Veterans' Affairs Committee and to plan on giving the full Committee the report that will be given to the Legislative Audit Committee.

Col. Yeager commented that the needs of the MHP are somewhat different from other agencies due to the requirement of 24-hour, 7 days a week staffing. Vacancy savings are more difficult for an agency that operates under this requirement.

PUBLIC COMMENT

Bill Muhs, Public Policy Liaison for Mothers Against Drunk Driving (MADD), Gallatin County, said the mission of MADD is simply to stop drunk driving, assist the victims of this crime, and to prevent underage drinking. He also said:

- Current national MADD policy supports a substantial increase in the taxation on alcoholic beverages as a means of paying for the damage caused by the misuse of alcohol and as a means of supporting prevention programs.
- Montana's current beer tax is among the lowest in the nation and is about \$4.30/barrel. After adjusting for inflation, it should be about \$13 a barrel.
- 81% of Montana's drunk drivers are intoxicated on beer.
- Montana alcohol-related fatalities increased by 22% in 2002 and ranked #1 nationally for alcohol fatalities per 100 million miles driven - almost twice the national average.
- MADD supports an increased beer and wine excise tax in order to increase funding for the MHP and improve law enforcement's ability to combat this problem.

Mr. Muhs closed by saying MADD has always supported the three fold concept of prevention, treatment, and enforcement and that MADD strongly supports the beer and wine tax increase.

Dick Haines, Representative, HD 63, strongly urged the Subcommittee to take action to solve this problem and related a story regarding a highway patrolman put in grave peril by a drunk driver, illustrating the need for additional patrol officers. The officer was of the highest quality and eventually left the Patrol for a better paying position with the Missoula Police Department. This is a common occurrence and the Montana HP is losing valuable resources because it is not paying at a rate that recognizes the value of these officers.

Mark Taylor, Association of Montana Highway Patrolman, commented that general fund revenue projections show a substantial decrease in citation collections, that there is a direct correlation between staffing levels and the number of citations issued, and the genesis of this entire issue is officer retention.

Mr. Taylor suggested the Subcommittee view the decisionmaking process as a three prong approach:

- 1) identifying a substantive solution - creating the law enforcement index;
- 2) looking at understanding what the fiscal impacts would be; and
- 3) identifying the potential funding sources.

Mr. Taylor said the Association supports Col. Yaeger's proposal of a liability insurance premium surcharge and the \$5 increase in motor vehicle registration proposal also. He noted that mandatory insurance systems are in place in Utah, Colorado, New Mexico, Georgia, Virginia, and Florida and suggested that Montana could examine these models for guidance in designing a system of its own.

REP. JENT asked if the other states' mandatory insurance programs included the requirement that the coverage be maintained and checked periodically. Mr. Taylor said that was correct and the requirement was usually attached to the drivers licensing process.

SUBCOMMITTEE EXECUTIVE SESSION

REP. FISHER stated the Subcommittee must respond to two questions:

- 1) discuss and select one or more of the MHP proposals, and
- 2) identify funding sources.

He said the decisions would be presented to the full SAVA Committee meeting scheduled for June.

Vacancy Savings -- Legislative approval removing the vacancy savings requirement for the MHP Division

SEN. GEBHARDT said he supports adding new officers but if funding levels are not adequate, the priority should be increasing the existing officers' pay. REP. LENHART said he thought it very important to do both: that new officers be added and increase current staff's wages.

REP. FISHER said eliminating the vacancy savings requirement would generate \$550,000 and asked the Subcommittee members for discussion. REP. JENT said he supports the elimination of vacancy savings and pointed out that there is a correlation between vacancy savings and overtime of existing officers.

REP. FISHER asked the Subcommittee to look at the Potential Funding Sources (EXHIBIT #2, Page 5) and said each one would be discussed:

- One cent increase in the existing gas tax -- SEN. GEBHARDT said Montana has one of the highest gas taxes in the nation and opposed raising this tax. REP. JENT also opposed increasing the gas tax because of its overall negative impact on the economy, particularly agriculture and tourism.
- Elimination of the dyed diesel program -- SEN. GEBHARDT said he opposed this measure because of the record keeping burden it would place on diesel users such as contractors, truckers, and farmers. REP. JENT agreed, saying the negative impact on agriculture was of concern to him.
- Vehicle registration fees -- SEN. GEBHARDT said revenue collected from a \$5 per vehicle fee would be almost equal to the revenue collected by the proposed \$5 liability insurance fee and that he was in favor of this proposal. REP. FISHER said the 2001 Legislature reduced vehicle registration fees and that he would not support raising the fee again. REP. JENT agreed, saying the inconsistency of reducing the fee and then increasing it would not have support from the Legislature. REP. LENHART said he thought it had potential and that he would like to have more research done before rejecting this proposal. The Subcommittee agreed to table this option.
- Use more of the existing gas tax -- The Subcommittee agreed that the Montana Department of Transportation (MDOT) would strongly oppose this proposal.
- Additional funding from the State General Fund -- SEN. GEBHARDT said he thought there was an argument for this proposal, since all of the public benefits from the services provided by the MHP. REP. FISHER felt this proposal should be the last resort and did not think it was a viable source of funding for the MHP proposals.
- Fee per vehicle for each liability insurance policy, either newly written or renewed -- REP. FISHER said this proposal would generate the full amount needed and if 100% compliance was achieved, the total amount generated would be approximately \$8 million annually. SEN. GEBHARDT asked if compliance tracking would be more effectively done if the fee was assessed per driver, rather than per vehicle, since the insurance policy would be purchased for the driver, rather than the vehicle. REP. JENT said he was in favor of the fee per vehicle as the principal alternative for funding because there are more vehicles than drivers in Montana and that most citations written

are for insurance violations. This would address the funding problem, increase the rate of compliance, and the insurance companies would directly benefit by the increased sale of liability insurance policies. The Subcommittee agreed to present this proposal to the full SAVA Committee.

- New tax on beer and wine -- REP. FISHER asked the Subcommittee to support this proposal, in order to allow it to be considered by the full Legislature. He suggested increasing the beer tax from \$4.60/barrel to about \$19/barrel, which is the amount the federal government taxes beer. SEN. GEBHARDT said according to earlier testimony, this would place the tax on only 30% of the people and wondered if the revenue generated from this tax would be more appropriately used for prevention and treatment programs. He said he did not like the idea of funding the Highway Patrol solely on a beer or wine tax. REP. FISHER said currently 23% of the alcohol tax goes to prevention and treatment programs, so any increase in this tax would benefit these programs. The Subcommittee agreed this proposal was not the preferred alternative but still would be presented to the full Committee.

REP. FISHER summarized the discussion, saying the Subcommittee supported eliminating vacancy savings for the MHP, the vehicle liability insurance fee, and the beer and wine tax and that all three should be presented for serious consideration by the full SAVA Committee. SEN. GEBHARDT said he would like to include the general fund and vehicle registration fee proposals also. REP. FISHER asked the Subcommittee members, given that the funding can be found for the proposals, if they supported the program as presented by Col. Yaeger. The members responded that they did support the program. REP. FISHER directed Mr. Bohyer to prepare a brief for the Subcommittee members to approve before it was distributed to the full State Administration and Veterans' Affairs Committee in June. SEN. GEBHARDT suggested the Subcommittee prioritize the five proposals.

The Subcommittee prioritized its solutions:

- 1) the elimination of vacancy savings;
- 2) creating a vehicle liability insurance surcharge of \$5 per vehicle;
- 3) increase in vehicle registration fees by \$5 per vehicle;
- 4) increase in the beer and wine tax; and
- 5) additional allocation from the general fund.

REP. FISHER said his goal was to present a "committee" bill to the 2005 Legislature. SEN. GEBHARDT asked if HB 2 complications would arise with the inclusion of vacancy savings in a committee bill. Mr. Bohyer said the issue of vacancy savings is always an issue in the discussion of HB 2 and would be handled by the Appropriations Committees and the Finance Committee. The Subcommittee discussed whether or not the proposals should be presented as one Committee bill or segregated into several individual bills. It was the consensus that the proposals should be retained in one bill.

REP. JENT said legislative action would be needed to implement the Montana Law Enforcement Salary Index and said it would have to be separate from HB 2. Mr. Bohyer said two avenues could be taken:

- address it legislatively and place it in the statutes; or
- direct the Department of Justice to create and maintain the Salary Index through administrative rule.

SEN. GEBHARDT thought the Salary Index would be more stable and permanent if it was enacted into statute through the legislative process, rather than created through administrative rule. The Subcommittee directed Mr. Bohyer to create a bill draft creating a law enforcement salary index. Mr. Bohyer said if a bill draft request is approved by the full SAVA Committee, he would work with the DOJ to identify the specific language necessary to have in the statute in order for the DOJ to administer the Index under the Legislature's intent.

ADJOURN

With no further business before it, the Subcommittee adjourned 10:42 a.m..

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