



Study of State Labs at MSU Bozeman Interim Committee

65th Montana Legislature

SENATE MEMBERS

TOM FACEY
FREDERICK (ERIC) MOORE
GORDON VANCE

HOUSE MEMBERS

BRADLEY MAXON HAMLETT
KELLY MCCARTHY
KERRY WHITE

COMMITTEE STAFF

SHAUNA ALBRECHT, Lead Staff

MINUTES LOG

April 24, 2018

Corporate Room, Bobcat Stadium, Montana State University
Bozeman, Montana

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COMMITTEE MEMBERS PRESENT

SEN. TOM FACEY
SEN. FREDERICK (ERIC) MOORE
SEN. GORDON VANCE
REP. KERRY WHITE

COMMITTEE MEMBERS EXCUSED

REP. BRADLEY MAXON HAMLETT
REP. KELLY MCCARTHY

STAFF PRESENT

SHAUNA ALBRECHT, Lead Staff

VISITORS' LIST ([Attachment 1](#))

AGENDA ([Attachment 2](#))

COMMITTEE ACTIONS

CALL TO ORDER AND ROLL CALL

00:00:02 Chair Kerry White called the meeting to order. ([Attachment 3](#))

History of Chronic Wasting

00:03:15 Shauna Albrecht, Legislative Fiscal Division, briefly discussed the history of chronic wasting disease in Montana. She said there were four confirmed cases in southeast Montana over the past two years and one in the Chester area. The disease has been in Montana since the 1960s. She said Montana Fish, Wildlife & Parks is currently monitoring the disease.

Introduce Consulting Team & Overview of Process

00:04:19 Ms. Albrecht introduced Stephen L'Heureux of LPW Architects and Andy Stepp, Greg Lattig and Shawn Diederich of Clark Enersen Partners. She said the consultants will be meeting with stakeholders throughout the week.

00:05:24 Russ Katherman and Marina Little, Montana Architecture and Engineering Division, gave a brief overview of the process. Mr. Katherman said this week consultants will be data-gathering and the team will come back together to develop reports for the Legislative Finance Committee in June.

00:06:45 Mr. L'Heureux said LPW Architects is pleased to work on the project and said Clark Enersen's laboratory and agricultural experience was good to have on the project.

00:08:06 Mr. Lattig said they will start identifying and putting together a room list and identifying deficiencies. By June 18 they will have information back to the subcommittee.

Subcommittee Session with Consulting Team

00:10:29 Sen. Facey asked about refurbishing or remodeling the existing building.

00:10:42 Mr. L'Heureux said they were looking at things from a physical and operational standpoint. He said they were meeting with different labs and discussing their needs so the team can piece together a multitude of options to understand everything and justify the end result. He said they would like this to be fairly bulletproof so when session starts, the options will have operational and

construction costs associated with them.

- 00:12:07 Sen. Facey said that was the best news he heard period. He said he describes the labs as being held together by duct tape and extension cords.
- 00:12:40 Mr. L'Heureux said they will talk about how things are starting to be done differently and understanding the state of the art. He said they plan to be available during session to answer questions.
- 00:13:38 Mr. Lattig said they will create the roadmap and be good stewards of the state's money while resolving issues.
- 00:14:03 Sen. Facey asked about ownership of land vs. building.
- 00:14:15 Chair White said the Board of Regents own the land
- 00:14:23 Sen. Facey asked Tracy Ellig of Montana State University how they would work a new building into state land.
- 00:14:46 Chair White said there was not a firm commitment on the land. He said there is interest in MSU offering a place for the lab, the current location of Marsh Lab would be cost effective. He said they would discuss it with the board of regents and MSU.
- 00:15:26 Sen. Facey clarified that if the best option is to build something, where will they do that? He said the land ownership question comes into view.
- 00:16:24 Mr. L'Heureux said that will be part of the option development process.
- 00:17:13 Mr. Ellig said Marsh Lab is currently sitting on MSU land. He said this committee wrote a letter to MSU and the Board of Regents about a chunk of land for a lab. He said MSU President Cruzado has expressed support in making a proposal, but ultimately the disposal of land is a decision of the Board of Regents. He said the board of regents have said they want to be partners but need to be considerate of university system mission.
- 00:19:30 Chair White said the only lab that is really connected to MSU is the wool lab, and that is an old facility with HVAC problems. He said there is a certain amount of opportunity for learning in Marsh Lab and the wool lab. The pulse and seed lab is involved in genetics and receives contributions from the national brewers association. He told the consultants to keep that in mind. Chair White noted there are some newer portions of the facilities and something needs to be kept operational during the process due to wildlife and livestock disease research, etc. Chair White said he would like to incorporate a learning ability into the lab. He asked if a legislative committee during session would consider developing different bills?
- 00:23:45 Mr. Lattig said they would have a recommendation by session. He said they

would likely have to shut down the lab during the process and could outsource testing. He said they did something similar with North Dakota. He said they need to go forward with one option everyone agrees is the best option.

- 00:24:49 Ms. Albrecht said the subcommittee is supposed to suggest three options to move forward to the LFC. Also she said there is a murky line with the university system and legislature, the role of the legislature is through appropriation.
- 00:26:00 Chair White said he mentioned the learning capability because it should be included in one of the options.
- 00:26:16 Ms. Albrecht said if that is a route the university wants to go, then it's part of the process.
- 00:26:35 Mr. Lattig said research labs are typically connected to universities.
- 00:26:46 Chair White agreed and pointed to Colorado State University.
- 00:26:52 Mr. Stepp said they also need to consider public outreach needs.
- 00:27:20 Sen. Vance asked Mr. Ellig for elaboration on the mission of the university system.
- 00:27:42 Mr. Ellig said that would be determined through a discussion with the Board of Regents. He said, generally, the university system sees itself in the role of educating students, creating new knowledge and transferring that knowledge to the public through outreach. He said the regents are wary of getting involved in transactional business -- they are reluctant to get in the business of managing or operating something that does mass testing for fees.
- 00:28:57 Sen. Vance said he didn't believe that was the direction they would go, but he said they were looking for assistance. He said MSU is a land grant college and he was hoping the university system would feel this project is part of their mission in terms of geography and different focus.
- 00:30:10 Mr. Ellig said he wasn't sure how the university hasn't demonstrated an interest in this process and noted the president has carved out a lot of time to participate in discussion. He said the university recognizes the Department of Livestock has a serious problem with the condition of current lab. He asked the committee what they wanted from the university.
- 00:31:10 Chair White said "we want you to build it."
- 00:31:20 Sen. Vance said the entire industry has concerns, not just livestock. He said he gets the feeling the board of regents is taking a hands-off approach and he was hoping they would be more proactive. He said he was not talking about MSU, but the Board of Regents as they seem to be backing away.

- 00:32:15 Mr. Ellig said the Board of Regents' viewpoint is the reason we are all here is because the Department of Livestock has a need and that should be the first thing addressed, and that would be most adequately addressed by livestock staff and constituents. He said the university system feels it's inappropriate to dictate to livestock what sort of facility it needs.
- 00:33:16 Sen. Facey said he understands the university system doesn't want to be involved in cash flow. but he said they are looking for acreage. He said he also understands the concerns with growth.
- 00:34:19 Chair White asked Mr. Ellig if students go to Marsh Lab to observe, does the university compensate the lab for any of that training?
- 00:34:48 Mr. Ellig said student involvement with necropsy is on an opportunistic basis, maybe once a semester. He said the lab calls MSU to invite students to observe a procedure that is taking place anyway. He said they do not write a check to the Department of Livestock.
- 00:36:16 Steve Smith, of the Veterinary Diagnostic Laboratory, said there have been students in at least six labs this year. He said he would like to increase those interactions as they are very well received. He said next year he will lecture and imagines there will be more than six labs. He said to some extent it has been opportunistic -- if he has some good teaching material he will call to arrange schedules. But he said he will also save things back and bring it to the next lab as a teaching opportunity. He said it has been voluntary on his part and sees a benefit to both sides for increased partnership. He said they also have work-study students who are compensated.
- 00:39:39 Sen. Facey asked consultants to include some of these two-fer comments in the plans. He asked about the South Dakota project and how they financed it.
- 00:40:27 Mr. Lattig said South Dakota has a teaching component and that it is always murky who pays. He said they did a significant addition to accomplish the veterinary diagnostic laboratory component and renovated the existing building for the teaching component. He said the state wanted a strong line between what the state and South Dakota State University paid for -- in the end, the state funded the project but not all of it. He said a tax on agriculture physically paid for building, \$56 million total for the project. He said profitability varies and is cyclical, it is a challenge to base financing on that. He said Missouri's lab belongs to the university and the state contracts with the university for testing.
- 00:43:01 Sen. Facey asked if there is a nationwide trend where the culture is moving to more complicated facilities. He asked if there is a trend they don't know about?
- 00:43:28 Mr. Lattig said CSU has an advanced lab as do several others including Kansas. He said everyone is upping their game a little bit, improving testing facilities for safety of staff, etc.

00:44:06 Sen. Facey pointed out that situations arise and aren't predictable but more complicated as we go along.

00:44:34 Mr. Lattig said they design for the most advanced facility.

00:44:58 Sen. Facey said he believed they will need to get new air quality vents for the lab?

00:45:14 Mr. Lattig said probably.

00:45:21 Chair White said FWP conducts 40% of the testing at Marsh and he was more interested in cost recovery. He asked the consultants that while they are developing lab plans to keep in mind how different participants of the lab could compensate for a cost recovery approach.

00:46:53 Mr. Lattig said they would develop individual room lists and provide costs associated with each option.

00:47:26 Chair White said FWP is testing elk, deer, other large animals and the wool lab also conducting research, they could be separated for differences in there. HVAC is critical and disposal of diseased tissues.

00:49:23 Sen. Vance asked if they would be given timelines.

00:49:34 Mr. Lattig said yes and that will have an impact on cost.

00:50:02 Chair White asked about phases.

00:50:09 Mr. Lattig said that is the legislature's call.

00:50:26 Mr. Diederich said the final product will have applied costs for each space in the facility.

00:51:21 Mr. L'Heureux said Mr. Diederich is a mechanical engineer and his expertise is in HVAC systems.

00:51:42 Chair White asked about sewer systems and Mr. L'Heureux said Mr. Diederich had expertise in that as well.

00:51:58 Mr. Katherman followed up on Sen. Vance's question about the instructional component -- does the subcommittee want that included as the team moves forward as that would impact space requirements and cost.

00:52:30 Chair White said it would be different per lab, but is important to look into opportunities for learning or instruction.

00:53:21 Sen. Facey said he wanted to see a space with projectors, tables, chairs -- include community service and university aspect.

00:54:34 Mr. Katherman said shared spaces aren't too difficult to estimate, but if the desire is to have students in labs, that brings a much different dynamic to labs and how they function.

00:55:11 Chair White asked if students were in necropsy lab.

00:55:24 Mr. Smith said it varies. He said they would be on necropsy floor and he would be the one doing the work or an MSU instructor. He said as students progress there is an opportunity to learn by doing. He said he is interested in developing an auditorium-like space for those classes.

00:57:44 Chair White asked about long distance teaching. He said a lab that could video transmit so learning could be done around the country could be huge. He said they could be compensated for those opportunities.

00:58:28 Mr. Smith agreed that there was strong potential.

00:58:42 Chair White said even if all the equipment is put in up front but has the capability to be upgraded, that would be good.

00:59:01 Mr. Lattig said video capture is common and helps provide a better environment for students.

00:59:24 Chair White asked Ms. Albrecht about the process. He said they will have options for design and construction plus funding mechanisms going to different interim committees and a recommendation for LFC by September. He asked if they would see any kind of bill draft or anything coming out of committees?

01:00:23 Ms. Albrecht said that is an option. She said this subcommittee will write a report and the LFC could draft a bill. She said the Department of Livestock is working on a bill.

01:01:57 Sen. Facey suggested the governor's office should be brought in to the conversation to see if there is money in executive's budget.

01:02:22 Chair White said Charles Robison with USDA Rural Development was going to present some options for funding. He said it was not uncommon for the state to lease-back after construction. He said he heard on TV that FWP was looking at CWD testing for next 15 years, it is not going away any time soon. He said it is critical we have something in the state that has that capacity.

01:03:39 Ms. Albrecht confirmed there had been contact with the executive branch.

01:03:49 Sen. Facey said they should bring the executive into the discussion regarding costs.

01:04:22 Ms. Albrecht said HB 661 was signed in by the Governor, so it is on the radar, but an update would be a good option.

01:04:52 Mr. Katherman said the long range planning timeline is that all agencies need to have requests in by July 1. He said they will meet with the Office of Budget and Program Planning and this item will be on this list. He said agencies are asked to provide as much detail as possible. He said there are a few months to do some analysis and provide input to the OBPP.

01:06:52 Chair White said they may have the opportunity for partnership-funding proposals so the state wouldn't have the large chunk.

01:07:28 Mr. Katherman said long range funding is limited to using the coal severance and cigarette tax. He said his office doesn't bring forward funding ideas, the legislature or governor's office does that.

01:08:41 Sen. Facey asked if the subcommittee will meet June 18.

01:08:53 Ms. Albrecht said before June 18 to go over the information obtained so far.

01:09:06 Chair White asked when they would have something firm from the consultants.

01:09:32 Mr. Lattig said they will have better idea after they go through all the buildings..

01:09:51 Ms. Albrecht said by Friday they will have a better idea.

01:10:21 Chair White said EQC meets at the end of May -- he said he wants to make sure the subcommittee information goes to the interim committees in a timely manner. In January 2019 the legislative session begins and the interim committees will wrap this September and October.

01:11:50 Sen. Facey said the Economic Affairs Interim Committee will meet in April and June.

01:12:02 Sen. Vance confirmed the subcommittee would meet prior to June 18, but the consultants will have options by June 18.

01:12:30 Chair White said yes, then they can then take proposals to different interim committees.

01:13:05 Mr. Lattig said having an understanding of the site will determine a lot regarding costs. He said building on a new site will add to costs.

01:13:39 Chair White said President Cruzado has offered and the regents are open to having it at the location with the understanding complex won't be 40 acres. He said he's not sure the current size, but more like 5 acres. He said he would really appreciate a footprint requirement to get to Mr. Ellig as the university is who might be able to contribute the land and it would be a cost savings for this project.

01:15:27 Mr. Lattig asked who maintains Marsh Lab?

- 01:15:37 Chair White said the Department of Livestock. He said the seed and pulse labs are subsidized by private industry.
- 01:15:55 Mr. Lattig asked about demolition of the current building
- 01:16:07 Mr. Katherman said that would depend on the options to reuse. The Biological Safety Level-2 piece of the lab is 10 years old, but if it is out of date then the return on investment in putting more money in doesn't make sense.
- 01:16:49 Sen. Facey clarified that information is above our paygrade.
- 01:17:15 Ms. Albrecht said the current Marsh Lab is a university building and it would be up to the regents and the university to determine if the building should be demolished.
- 01:17:43 Chair White said there is quite a bit of university land there, he said they could build there, but not on that particular site.
- 01:19:04 Mr. Katherman said he was checking on the FWP site.
- 01:19:19 Mr. Ellig said FWP moved there in the late 1980s. He said the university retains ownership of the land but does not own or maintain FWP buildings. He said it's a free land lease to FWP. He said Marsh Lab is different in that it's university land and a university building. He said the Veterinary Diagnostic Lab lives inside there (it came about in the 1960s via legislative appropriation). He said FWP pays \$120 operations and maintenance for snow removal and building maintenance.
- 01:21:13 Chair White asked Mr. Ellig if they built next to building, could the university use it in the future?
- 01:21:35 Mr. Ellig said he could not speculate, but if consultants come up with an option for Marsh to stand and to build another state building, that could be a good option. He said Marsh is large and university is squeezed for space, it is not out of the realm of possibility that university could use 13,000 square feet if they vacate Marsh Lab.
- 01:23:23 Sen. Vance asked when the regents next meet.
- 01:23:27 Mr. Ellig said May 24-25 in Havre.

USDA-Rural Development Funding Options

- 01:25:43 Chair White introduced Charles Robison with the USDA, who introduced Brent Donnelly with USDA and Wayne Gardella with the SBA. ([Exhibit 2](#))
- 01:27:04 Mr. Robison said they have some preference to see the lab built in rural Montana, but are happy to partner with the MSU lab.

01:27:26 Mr. Donnelly discussed the loan guarantee program information.

01:30:50 Mr. Gardella discussed SBA programs.

01:34:20 Mr. Donnelly said these programs enhance commercial financing. He said they can lock in interest rates for a longer term. He said it was their mission to create jobs and enhance quality of life in rural communities.

01:35:07 Sen. Facey asked Cathy Duncan, Legislative Fiscal Division, about recent projects that involve this sort of financing.

01:35:34 Ms. Duncan said the board of investments has an intercap loan program, that would be one place they could go. In that case, she said they could have the state build the lab. She said a bond would be the least expensive way to do it, but the state has been unable to get approval for bonding. She said the state has a good credit rating and low debt, and bonding will always be the least expensive way to get a building built. She said she was currently working on alternatives to bonding for the LFC and will present those in June. She said most options boil down to lease-to-own. She said most either pay for it and build it or lease it. She said they could pay in cash, bonds or loans -- loans are not traditionally done, and loans on intercap are higher.

01:38:35 Sen. Facey asked if they could treat these activities as an enterprise fund -- use the cost of doing lab tests as a source of income to pay off bonds, and have the state of Montana serve as guarantee in case chronic disease went away.

01:39:40 Ms. Duncan said they would need a source of income to defray costs. The intercap loan will still be debt and will still require 2/3 vote of the legislature.

01:40:42 Sen. Facey said an enterprise fund -- like the state print shop -- could pay off 2/3 of the loan. He said they could use the state Board of Investment as back-up flow of cash. He said they have demonstrated the need, he is trying to get best use of bang for the buck.

01:41:48 Chair White asked if SBA is all private.

01:42:03 Mr. Gardella said the state could be lessee of half of the structure.

01:42:38 Chair White said the seed and pulse labs are privately funded.

01:43:02 Ms. Albrecht clarified the seed and wool labs are funded by the state general fund and the wool lab is a university facility.

01:43:43 Mr. Gardella said the capital outlay is by the private side and the long term lessee is the university.

01:44:09 Mr. Robison said using a USDA guarantee, a private owner could be guaranteed financing of the entire structure.

01:44:57 Ms. Duncan asked if the private owner would own it forever or ownership would transfer to the state?

01:45:26 Chair White said he was thinking cost recovery, where a private individual would build and would get the interest on the building and at some point in time it would be paid off.

01:45:43 Mr. Gardella said it would be a lease with a set buyout.

01:45:51 Chair White said a lease amount would be more than a perpetual lease, but the state has several buildings that are privately owned.

01:46:17 Ms. Duncan said when their contract is up the DNRC has the ability to decide if they want to own the building.

01:47:04 Chair White asked Ms. Duncan to check on that and she agreed.

01:47:21 Ms. Duncan said she brought information on laws regarding the state entering a lease vs. constructing a building. She said agencies need to go through DOA General Services Division as that office assigns leases. If the building is greater than 40,000 square feet or the lease greater than 20 years then the legislature has to approve the leases. She said no leases have come through the long range subcommittee yet, it is not common. ([Exhibit 1](#))

01:50:19 Ms. Albrecht said there is the option of a loan guarantee with a private entity, but where land is located will cause further question. She said if it is on MSU land how does that play into university system if another entity owns the building for a period of time before the state does.

01:50:29 Chair White said they would be making a loan on a piece of ground the builder wouldn't own.

01:50:51 Mr. Donnelly said can they can lease land to an investor and lease the building back to the state, that is allowable under this program.

01:51:13 Chair White asked about the contract lease term.

01:51:26 Mr. Donnelly clarified that the USDA program doesn't require occupancy of half of the building.

01:51:52 Ms. Albrecht said there is another dynamic if the facility is built on university property, it would require a statute change.

01:52:24 Ms. Duncan explained information regarding Montana law she provided to the committee. She said a lease to own arrangement requires 2/3 vote just as bonding, a long term lease is equivalent to a debt. She said all leases include a clause that the lease is null and void if the legislature doesn't appropriate funds. .

01:55:55 Mr. Gardella said the federal government leases private property and can cancel that lease at any time, it is up to the developer and financial institutions to take that risk.

01:56:45 Ms. Duncan said non-appropriation clauses have been around forever. She said Colorado builds their buildings as lease-to-own because they have to have a vote of the people to finance debt. She said a non-appropriation clause adds a level of risk.

01:57:52 Chair White asked about rural area loans.

01:58:20 Mr. Donnelly said Bozeman is eligible, university property is eligible. He said the lines are drawn by census tracks, any place in Montana with the exception of Billings, Great Falls and Missoula are allowable.

01:59:15 Chair White said he has gotten calls from people saying potential locations from Dillon to the Red Lodge area along the park would be beneficial as it would be close to the disease pool. He said it sounds like Bozeman might work and the university is open to options.

02:01:13 Mr. Donnelly said it may or may not be complicated, programs do work in some instances with the Board of Investment.

02:01:43 Chair White asked Albrecht to research it.

02:02:12 Mr. Robison said the USDA would look for any way to partner.

02:02:34 Mr. Gardella said they push for rural America because the jobs help those areas.

02:04:18 With no public comment or further business before the committee, Chair White adjourned the meeting.