MINUTES

MONTANA HOUSE OF REPRESENTATIVES
59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN LARRY JENT**, on March 9, 2005 at 8:00 A.M., in Room 455 Capitol.

ROLL CALL

Members Present:
Rep. Larry Jent, Chairman (D)
Rep. Dee L. Brown, Vice Chairman (R)
Rep. Joan Andersen (R)
Rep. Mary Caferro (D)
Rep. Sue Dickenson (D)
Rep. Robin Hamilton (D)
Rep. Gordon R. Hendrick (R)
Rep. Teresa K. Henry (D)
Rep. Hal Jacobson (D)
Rep. William J. Jones (R)
Rep. Bruce Malcolm (R)
Rep. Alan Olson (R)
Rep. Bernie Olson (R)

Members Excused: Rep. Veronica Small-Eastman, Vice Chairman (D)
Rep. Emelie Eaton (D)
Rep. Gary MacLaren (R)

Members Absent: None.

Staff Present: Marion Mood, Committee Secretary
Sheri Heffelfinger, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing & Date Posted: SB 106, 3/3/2005
Executive Action: SB 62; SB 106; HB 754

CHAIRMAN LARRY JENT, HD 64, BOZEMAN announced that the hearing for HB 593 had been postponed at the Sponsor's request.

EXECUTIVE ACTION ON SB 62

Motion: VICE CHAIR BROWN moved that SB 62 BE CONCURRED IN.

Discussion:

REP. BERNIE OLSON, HD 10, LAKESIDE, reminded the Committee of REP. A. OLSON's concern regarding time limits but could not remember whether they had been alleviated by SEN. PERRY.

VICE CHAIR DEE BROWN, HD 3, HUNGRY HORSE, felt SEN. PERRY had alleviated those concerns and added the permitting process would benefit from the provisions of SB 62.

CHAIRMAN JENT concurred that a written decision was more appropriate than a verbal ruling, and he recalled that REP. A. OLSON was satisfied with the Sponsor's explanation.

Vote: Motion carried unanimously by voice vote; REPS. A. OLSON, MACLAREN, HENDRICK, SMALL-EASTMAN, HENRY and EATON voted aye by proxy.

CHAIRMAN JENT agreed to carry the bill on the House floor.

HEARING ON SB 106

Opening Statement by Sponsor:

SEN. JOHN BRUEGGEMAN (R), SD 6, opened the hearing on **SB 106,** Simplify State recovery of centralized services costs. He explained that currently, there are two plans, namely the State fund cost allocation plan for State special revenue funds and the statewide cost allocation plan. **SEN. BRUEGGEMAN** stated that the Federal government would object to the State having two different ways of charging indirect costs for different types of funds. SB 106 sought to simplify cost recovery and to bring everything under the statewide cost allocation plan.

Proponents' Testimony:

Amy Sassano, Governor's Budget Office, stated SB 106 streamlined the assessment of statewide indirect costs, such as accounting, budgeting, purchasing, and payroll expenditures to State agencies receiving these services. She advised that SB 106 simplified budgeting of those costs and made cost recovery more regular.

Steve Bender, Deputy Director, Department of Administration, advised his Department had joined with the Budget Office in crafting this bill to simplify and coordinate recovery of statewide costs.

Opponents' Testimony: None

Questions from Committee Members and Responses:

VICE CHAIR BROWN asked Ms. Sassano about the advantages of having had two cost allocation plans in the past. **Ms. Sassano** advised that there was no advantage; in fact, it had caused more confusion. **VICE CHAIR BROWN** wondered how the Budget Office had come to the conclusion that having just one plan would be better. **Ms. Sassano** stated that the idea had taken hold during the 2003 Session when balancing the budget had been a struggle, and when it was discovered that agencies were not paying what they should have.

REP. B. OLSON asked Mr. Bender why there was an exemption for the State's university system. **Mr. Bender** advised there was a long history behind that; the universities recaptured overhead costs for their Federal grants but reimbursed themselves out of their own funds.

REP. HAL JACOBSON, HD 82, HELENA, seemed to recall there had been mention of potential cost savings and asked Ms. Sassano to explain. **Ms. Sassano** replied it was not really cost savings, but more of a revenue source to the general fund to reimburse costs, adding that the revenue was built into the Executive Budget. In closing, she remarked if agencies did not pay their bills, it meant less revenue to the general fund.

Closing by Sponsor:

SEN. BRUEGGEMAN closed.
{Tape: 1; Side: A; Approx. Time Counter: 0 - 13.7}

EXECUTIVE ACTION ON SB 106

Motion: **REP. HENDRICK moved that SB 106 BE CONCURRED IN.**

Discussion:

REP. GORDON HENDRICK, HD 14, SUPERIOR, asked for information on the bill as he had missed most of the hearing; VICE CHAIR BROWN filled him in.

Vote: Motion carried unanimously by voice vote; REPS. MACLAREN, SMALL-EASTMAN, HENRY and EATON voted aye by proxy.

Motion/Vote: REP. HENDRICK moved that SB 106 BE PLACED ON THE CONSENT CALENDAR. Motion carried unanimously by voice vote; REPS. MACLAREN, SMALL-EASTMAN, HENRY and EATON voted aye by proxy.

REP. HENDRICK agreed to carry the bill on the House floor.

EXECUTIVE ACTION ON HB 754

Motion: VICE CHAIR BROWN moved that HB 754 DO PASS.

Motion: REP. WILLIAM JONES, HD 9, BIGFORK, moved that AMENDMENT HB075403.ash BE ADOPTED.
EXHIBIT(sth52a01)

Discussion:

VICE CHAIR BROWN asked Sheri Heffelfinger, Legislative Services Division, to explain the amendments. **Ms. Heffelfinger** advised that with the amendments, the provisions of the bill applied to all legislative and statewide office races but was no longer mandatory. She proceeded to read the rest of the amendments to the Committee.

REP. JONES explained that REP. KOOPMAN had requested these amendments so the bill would comply with the Constitution. **REP. JONES** advised that everyone who had attended the hearing for HB 754 should be a bit embarrassed for not being more knowledgeable about the Montana Constitution; he made special mention of Rick Jore, unsuccessful candidate for the House of Representatives, who stated he was the Constitutionalist Party candidate but was not all that firm with regard to the Constitution. **REP. JONES** likened this to some people who quote the scriptures but do not live accordingly.

VICE CHAIR BROWN advised that the amendment making the test voluntary totally changed the bill. She was frustrated that taxpayer money had been spent to draft this bill, and then the amendments rendered it useless.

In his rebuttal, **REP. JONES** pointed to "voluntary" campaign finance and ethics laws; he guessed there were similar restrictions in the Constitution which applied to political campaigns. **VICE CHAIR BROWN** advised she had not signed the clean campaign pledge, either.

REP. B. OLSON agreed with VICE CHAIR BROWN, adding this was just another litmus test of whether or not some candidates met "political" criteria. He stated refusal to take the test might be construed as an admission of ignorance. **REP. B. OLSON** opined the goal was to encourage people to participate in government, and not to put stumbling blocks into their paths. He pointed out how much he enjoyed some legislators' input in different committees, saying knowledge about important issues was more important than to learn the Constitution by heart; this bill was almost an insult.

CHAIRMAN JENT added coercion can be mandatory or implicit; he felt it was implicitly coercive to take a test to a candidate, saying he did not have to take it.

REP. TERESA HENRY, HD 96, MISSOULA, agreed with REP. JONES' assessment and added getting good test grades was not always indicative of having the knowledge; it might just be that people are able to retain material long enough to remember it until the test.

Vote: Motion failed 5-11 by roll call vote with REP. ANDERSEN, REP. CAFERRO, REP. JONES, REP. A. OLSON, and REP. B. OLSON voting aye; REPS. SMALL-EASTMAN, EATON and MACLAREN voted no by proxy.

{Tape: 1; Side: B}

Motion: REP. HENDRICK moved that AMENDMENT HB075402.ASH BE ADOPTED.
EXHIBIT(sth52a02)

Discussion:

REP. HENDRICK explained the amendment as not everyone had a copy.

CHAIRMAN JENT summarized the amendment changed the enumerated offices to *any* public office, and it required proof that the candidate had taken the test.

REP. B. OLSON wondered whether the amendment made the test mandatory for even conservation district election, which **VICE CHAIR BROWN** confirmed, adding it applied to all elected offices.

Vote: Motion failed 5-11 by roll call vote with REP. CAFERRO, REP. HENDRICK, REP. HENRY, REP. A. OLSON, and REP. B. OLSON voting aye; REPS. SMALL-EASTMAN, EATON and MACLAREN voted no by proxy.

Discussion on HB 754 resumed as it had already been moved.

VICE CHAIR BROWN advised that REP. KOOPMAN had provided the multiple choice test which she had requested and handed them out to the Committee members.
EXHIBIT(sth52a03)

REP. JACOBSON surmised this was an "open book" test without time limits.

REP. JOAN ANDERSEN, HD 59, FROMBERG, commented that she had observed a person taking the driver's license test with the test booklet opened on the desk.

Substitute Motion/Vote: REP. ANDERSEN made a substitute motion that HB 754 BE TABLED. Substitute motion carried 13-3 by voice vote with REP. CAFERRO, REP. JONES, and REP. OLSON voting no; REPS. SMALL-EASTMAN, EATON and MACLAREN voted aye by proxy. ***{Tape: 1; Side: B; Approx. Time Counter: 0 - 8.8}***

Other Committee Business

REP. JONES asked for a discussion on his suggestion for a study resolution to examine the investment of retirement funds by the Board of Investments.

CHAIRMAN JENT asked Ms. Heffelfinger about deadlines for study resolutions. **Ms. Heffelfinger** advised they could be requested up to the 75th day of the Session, which would be April 4th, and had to be transmitted to the Senate by the 85th day. She reiterated the procedures for resolutions and interim committees.

REP. JONES asked if any Committee members were willing to co-sponsor the resolution and received positive responses from **CHAIRMAN JENT** and **VICE CHAIR BROWN. CHAIRMAN JENT** wondered if a study resolution could be a committee bill, which **Ms. Heffelfinger** confirmed, adding it would require a majority vote by the Committee.

REP. A. OLSON advised it might have to be done as a committee bill unless a place holder had been requested.

REP. SUE DICKENSON, HD 25, GREAT FALLS, surmised REP. JONES' motivation was based on some questionable investments made by the Board which had come to light in an earlier hearing.

REP. JONES commented that Kelly Jenkins, Legal Counsel for the Public Employees Retirement Administration, had supplied him with

relevant information and the results of an audit report. This, and the fact that there were multiple requests before the Committee for enhanced benefits, straining a system which already was not sound actuarially, had precipitated the idea for a study resolution. He advised that he had studied this in depth and came to the conclusion that there should be some examination and oversight because of the importance of the invested funds and the volatility of the stock market. **REP. JONES** went on to explain investment strategies. In closing, he advised that he took exception to the claim "You do not drive the bus, you merely put gas in it," because the Legislature was, in fact, accountable for their actions.

CHAIRMAN JENT contended that State law was not clear on who had oversight over the management of pension plans; all it defined was that the Legislature was charged with ensuring the systems remained solvent and actuarially sound. He added that somewhat evasive answers as to investment strategies were troubling. He was also concerned with the fact that somewhere between adjournment in 2003 and the summer of 2004, the pension fund picture had gone from "rosy" to deficient, and he did not know what had caused this.

REP. A. OLSON stated his support for the resolution and asked whether this could be a joint effort between the State Administration and the Legislative Audit Committee. **CHAIRMAN JENT** acknowledged there could be joint meetings but interim committees could not be joint. **REP. JACOBSON** and **VICE CHAIR BROWN** pointed out the importance of the Audit Committee's independence.

The Committee continued their discussion, bandying about various ideas for solutions.

CHAIRMAN JENT advised, if this was to be a committee bill, it would require a vote and it would have to be noticed to the public.

Motion: CHAIRMAN JENT moved to DRAFT A COMMITTEE BILL FOR A STUDY RESOLUTION TO EXAMINE THE INVESTMENT STRATEGY OF THE BOARD OF INVESTMENTS REGARDING RETIREMENT FUNDS.

{Tape: 2; Side: A}

Ms. Heffelfinger advised the Committee about the technical aspects the bill.

REP. JACOBSON suggested designating a subcommittee to hammer out the language with the staff person. When **Ms. Heffelfinger**

advised a subcommittee was required to have official meetings, complete with minutes, the idea was abolished.

REP. B. OLSON contended one of the reasons behind this bill was that the Committee wanted to send a message to the Board that they were being watched.

REP. JONES commented that the Legislature had a contract responsibility to keep the system actuarially sound; but the fiduciary responsibility was to oversee it, which **CHAIRMAN JENT** confirmed, adding this bill may very well result in some legislative direction to the Board.

Ms. Heffelfinger advised there was sufficient statutory language directing the Board's investment strategies and suggested one of the components of the study could be to look at the statutes and how they are applied. She added that in the past, there had been concerns that the Board had been too conservative. This perception had changed, though, making this a good time for a study.

Vote: Motion carried unanimously by voice vote; REPS. SMALL-EASTMAN, EATON and MACLAREN voted aye by proxy.

Motion: REP. A. OLSON moved to RECONSIDER THE MOTION on SB 62.

Discussion:

REP. A. OLSON referred to another bill of SEN. PERRY'S which dealt with the time frames, stating he would be more comfortable if those time frames could be added into SB 62.

CHAIRMAN JENT had been given a copy of the bill in question, SB 260, and read from it, "A final decision must be issued within 90 days after a contested case hearing." He advised the bill had been referred to House Judiciary.

REP. ANDERSEN asked if the Committee could add a contingency clause into SB 62. **CHAIRMAN JENT** decided that he would not sign the Standing Committee Report on SB 62 until the fate of SB 260 was known.

Without objection, **REP. A. OLSON** withdrew his motion.

ADJOURNMENT

Adjournment: 9:20 A.M.

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REP. LARRY JENT, Chairman

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MARION MOOD, Secretary

LJ/mm

Additional Exhibits:

EXHIBIT(sth52aad0.PDF)