

**Council Senate Members**

BOB KEENAN--Vice Chair  
VICKI COCCHIARELLA  
BRENT CROMLEY  
DUANE GRIMES  
JON TESTER  
FRED THOMAS



**Council House Members**

KIM GILLAN--Chair  
ROY BROWN  
GEORGE GOLIE  
JEFF LASZLOFFY  
DOUG MOOD  
DAVID WANZENRIED

## Montana Legislative Council

PO BOX 201706  
Helena, Montana 59620-1706  
(406) 444-3064  
FAX (406) 444-3036

# MINUTES

June 25, 2004

Room 317, 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. KIM GILLAN, Chair

SEN. VICKI COCCHIARELLA  
SEN. BRENT CROMLEY  
SEN. DUANE GRIMES  
SEN. FRED THOMAS

REP. ROY BROWN  
REP. GEORGE GOLIE  
REP. JEFF LASZLOFFY  
REP. DOUG MOOD  
REP. DAVID WANZENRIED

### MEMBERS EXCUSED

SEN. BOB KEENAN, Vice Chair  
SEN. JON TESTER

## **STAFF PRESENT**

Lois Menzies, Executive Director, Legislative Services Division (LSD)  
Greg Petesch, Legal Director, Legal Services Office, LSD  
Dawn Field, Council Secretary  
Karen Berger, Manager, Financial Services Office, LSD  
Hank Trenk, Director, Office of Legislative Information Technology, LSD

## **AGENDA & VISITORS' LIST**

Agenda, Attachment #1.  
Visitors' list, Attachment #2.

## **COMMITTEE ACTION**

The Legislative Council:

- approved the March 25, 2004, minutes as written on a unanimous voice vote.
- approved the OBPP bill requests for drafting;
- approved the Mental Disabilities Board of Visitors bill request for drafting;
- appointed Dave Bohyer and Susan Fox, LSD, as the liaisons to work with the Census Bureau in Phase One of the 2010 census;
- approved FY 2004 and FY 2005 operating plan adjustments;
- approved creation of a personnel officer for the Legislative Branch;
- preliminarily approved the following 2007 biennium Interim Committees and Activities Budget proposals:
  - ▼ \$22,700 for additional interim committee meetings for the 2005-2006 interim for review of agency legislation;
  - ▼ \$10,000 for PNWER participation;
  - ▼ \$79,650 for members' participation in NCSL and CSG; and
  - ▼ \$145,261 for FY 2006 and FY 2007 CSG dues;
- approved the following legislation for drafting:
  - ▼ Code Commissioner bill;
  - ▼ clarifying payment to legislators-elect for presession activities;
  - ▼ simplifying payment of wages to legislative pages;
  - ▼ revising definition of "short-term" workers;
  - ▼ reserving funds for major IT systems;
  - ▼ requiring agencies to identify the impact of proposed IT systems on other agencies' systems; and
  - ▼ 2005 legislative feed bill.

## **CALL TO ORDER AND ROLL CALL**

REP. GILLAN called the meeting to order at 8:09 a.m. The secretary noted the roll (Attachment #3). SEN. KEENAN and SEN. TESTER were excused. The Council approved the March 26, 2004, minutes as written on a unanimous voice vote.

## REVIEW OF AGENCY LEGISLATION

Ms. Menzies explained that since the Office of Budget and Program Planning and the Mental Disabilities Board of Visitors are not statutorily attached to an interim committee, they are required to bring their legislative proposals before the Legislative Council for approval.

**Chuck Swysgood, Office of Budget and Program Planning (OBPP), Governor's Office,** presented the 2007 biennium appropriations bill requests (EXHIBIT #1).

REP. WANZENRIED noted that the bill requests presented by Mr. Swysgood are all "obligated" to be submitted to the Legislature and asked if there were any other bills anticipated. Mr. Swysgood said that at this time, no other bills are anticipated.

SEN. THOMAS asked for a status report on fire suppression costs for the current year. Mr. Swysgood said different avenues of how to address fire costs have been examined over the last interim but nothing has been finalized. He added that OBPP cannot consider budgeting additional funds for fires at this time. SEN. THOMAS asked Mr. Swysgood to address the concerns expressed by Montana citizens regarding controlling fire expenses and the wasting of resources. Mr. Swysgood responded that some of the concerns are valid but that many costs are dictated by entities beyond the control of state government. He said the Forest Service decision to ground air tankers is of grave concern to him and could negatively impact fire suppression costs.

SEN. COCCHIARELLA **moved** to approve the OBPP bill requests for drafting. The **motion passed unanimously** on a voice vote.

**Gene Haire, Executive Director, Mental Disabilities Board of Visitors** , presented a bill request to clarify statutes relating to the Mental Disabilities Board of Visitors (EXHIBIT #2).

REP. WANZENRIED **moved** to approve the bill request for drafting. The **motion passed unanimously** on a voice vote.

## CAPITOL FACILITIES REPORT

**Doug Olson, Facilities Manager, General Services Division (GSD), Department of Administration (DOA)**, gave a status report regarding a number of on-going projects in the Capitol Building:

- reconstruction of the exterior stairs on the north side;
- continuing flooding problems occurring in the west end of the basement;
- renovation of the Senate "mystery room" on the fourth floor;
- wind damage to the copper dome;
- installation of drain pipes in the northwest corner;
- acquisition of new podiums for meeting rooms; and
- disaster and emergency services grant application for improving building lockdown capabilities.

SEN. COCCHIARELLA asked if the GSD is negotiating with the City of Helena to provide fire protection services to the Capitol complex. Mr. Olson said the GSD is negotiating and that there is a meeting scheduled with the Helena City Fire Chief.

Mr. Olson explained that funding for repair projects comes from Capital Land Grant grazing and royalty fees and that the Department of Natural Resources and Conservation oversees the collection of these fees. The amount allocated to GSD has decreased from \$900,000 in the 2000-2001 biennium to approximately \$500,000 in the 2004-2005 biennium. The decrease in funding has made it difficult to keep up with needed repairs and that is why some repair projects are on hold.

REP. GOLIE asked if the drainage problem in the basement is a top priority for the GSD before the 2005 legislative session begins. Mr. Olson said the basement is the GSD's top priority because it realizes that the offices in that area must be in working order for the legislators.

SEN. COCCHIARELLA asked who is responsible for allocating the Capital Land Grant money. Mr. Olson said the OBPP makes the allocations.

REP. GILLAN asked Mr. Olson for a cost estimate for repairing the basement and installing the drain pipes. Mr. Olson said the total cost would be approximately \$45,000-50,000.

#### **SJR 32 SUBCOMMITTEE ON MEDICAL MALPRACTICE LIABILITY INSURANCE REPORT**

REP. GOLIE reported that the SJR 32 Subcommittee met the previous day and finalized its bill draft requests. Eight of ten proposals were passed by the Subcommittee and will be presented to the Legislative Council in September. REP. GOLIE recommended that REP. GILLAN, as Chair of Legislative Council, allow a half-day of meeting time to consider the proposals. REP. GOLIE said the proposed legislation will be available to all Legislative Council members at least two weeks in advance, along with a synopsis of each proposal.

REP. GILLAN announced that the next Legislative Council meeting date has been changed to September 17 and asked for discussion on whether a one-day meeting would be sufficient to address both Council issues and the SJR 32 Subcommittee proposals. **Lois Menzies, Executive Director, Legislative Services Division (LSD)**, pointed out that the public has a right to participate and provide comment on any action taken by the Council but that the Council has the authority to limit comment to a specific amount of time. She thought that four hours may be a sufficient amount of time for the Subcommittee. REP. GILLAN said a final decision would be made later and asked the Council members to reserve September 16 as a possible additional meeting date until the final decision was made.

SEN. THOMAS commented that four hours is a long time for eight proposals. REP. GOLIE replied that the subject matter in some of the bill proposals is complicated and that the Council would likely have many questions. REP. GOLIE discouraged placing a time limit on testimony because the stakeholders will want to actively participate in the discussion. SEN. THOMAS said the decision before the Council is simply to decide whether or not to approve drafting of the bill requests and that enforcing a time limit on testimony would require people to be concise while still giving them an opportunity to participate. SEN. GRIMES said he thought the stakeholders should be notified that there would be a time limit on public comment.

REP. GOLIE said, as Chair of the Subcommittee, he planned to recommend that all eight measures be adopted by the Legislative Council. REP. WANZENRIED asked why there needed to be public comment if all eight measures were going to be adopted by the Council. REP. GOLIE said at the last Council meeting he had requested that the Subcommittee be allowed to directly sponsor the bills, but the decision was made that the proposals must be approved by the Council. REP. GOLIE said, in light of that decision, he feels that the stakeholders must be able to testify on these proposals. REP. GILLAN said she would confer with Ms. Menzies and Mr. Petesch and make the final decision and that Council members would be informed of the decision by mid-August.

## **STATUS REPORT ON STATE REVENUE COLLECTIONS AND EXPENDITURES**

**Terry Johnson, Principal Fiscal Analyst, Legislative Fiscal Division (LFD)**, distributed:

- copies of the full report prepared by the LFD for the Legislative Finance Committee (LFC) meeting held June 18, 2004 (*General Fund Revenue Update - Fiscal 2004*, EXHIBIT #3); and
- a summarized version of the LFC full report (*General Fund Revenue - Fiscal 2004*, EXHIBIT #4).

Mr. Johnson then discussed fiscal year 2004 revenue trends and sources, saying that the general fund revenue picture for 2004 has improved, and that there is a potential \$40.2 million increase over the projections contained in HJR 2, due to an increase in revenue collections from income tax, oil and gas royalties, inheritance tax, and video gambling. He cautioned that despite the increase in revenue collections, there is still an estimated shortfall of \$250 million, due to issues such as fire costs, school funding, and District Court cost assumptions.

SEN. COCCHIARELLA asked for more specific information regarding the federal tax reform implications on Montana revenue collections. Mr. Johnson referred to Page 4 of EXHIBIT #3, and said the impact of the federal Jobs and Growth Tax Relief Reconciliation Act were summarized there. He said the main reason for the increased state tax collections was the federal tax reform measures.

SEN. CROMLEY asked for an explanation of how revenues are actually posted to the state accounting system. Mr. Johnson explained that temporary staff are hired by the Department of Revenue (DOR) to open the mail and make the deposits into the system during the tax system. The increased use of electronic filing has impacted the process because data has shown that those people who expect to get a refund will file electronically. The people who have to pay taxes continue to use the mail. This has resulted in refunds being made at a more rapid rate than deposits, which can cause an imbalance, thus impacting the projections at times.

SEN. THOMAS asked if the projected \$40 million fund balance was as of the first of June. Mr. Johnson said the \$40 million balance was the projection for the entire FY 2004, and not just for the first six months. SEN. THOMAS asked when fiscal year end numbers would be available. Mr. Johnson said the books close officially on June 30, 2004, and the final numbers would be available on July 25. SEN. THOMAS asked when the next revenue projection update would be completed. Mr. Johnson said the final analysis would be completed by the end of September in anticipation of the LFC meeting in October.

SEN. GRIMES said he supported studying possible changes to the revenue projection procedure in the last session and asked Mr. Johnson if he thought changes were needed. Mr. Johnson said the LFD has worked to establish even closer working relationships with the University System, particularly Dr. Paul Polzin from the University of Montana and Dr. Myles Watts of Montana State University. Recently the LFD, the OBPP, and Drs. Polzin and Watts collaborated on establishing a system for gathering state data more efficiently for economic forecasts. A presentation has been made to the Revenue and Transportation Interim Committee. Additionally, the LFD and the OBPP has been trying to work very closely together using a model that works for both offices. Mr. Johnson said there should be a process to critique these predictions and that he would welcome closer scrutiny of the assumptions from the Legislature.

REP. GILLAN said there is concern that higher gasoline prices will negatively impact summer tourism in Montana and asked if any data would be available to assess to what extent tourism may have been impacted. Mr. Johnson said it would be difficult to make that type of assessment because tourism dollars are difficult to track.

Mr. Johnson also distributed the most recent general fund status report (EXHIBIT #5) and said the report shows the data from June 2003 through June 24, 2004. He said the end of year adjustments are not factored into the June 24, 2004 numbers and pointed out that individual income tax is \$10 million above the HJR 2 estimate.

SEN. THOMAS referred to EXHIBIT#3 and asked what the reason was for increase in the cigarette tax revenue. Mr. Johnson said the increase in the cigarette tax from \$.18 to \$.70 per pack tax that went into effect on May 1, 2003, distorted the projections but the numbers indicated in EXHIBIT #5 are accurate.

SEN. THOMAS asked about the impact of the federal tax reform on corporate tax returns, particularly the allowing of accelerated depreciation of assets. Mr. Johnson explained that companies will accelerate depreciation but on the back end of it, they will have less to depreciate into the future. Revenue will decrease initially but when depreciation starts to phase in at that lower level, the revenues come back. By the end of a ten-year period, it should be even. Mr. Johnson pointed out that corporation taxes are doing much better than estimated, due to an unanticipated \$7 million audit received in January 2004. SEN. THOMAS asked Mr. Johnson to confirm that if the numbers on EXHIBIT #5 indicate the numbers to be about where they were estimated to be, then that meant that the \$7 million that was anticipated didn't come in, but that the audit made up for it. Mr. Johnson said that was correct; if the audit had not been received, the numbers would be different.

REP. GILLAN asked Mr. Johnson to update the Council at the September meeting and to present the LFC report, if possible. Mr. Johnson said the report would not be finalized by the September Council meeting but that he would update the Council with the data that is available.

SEN. THOMAS asked if the difference in the tobacco settlement funds has been received yet. Mr. Johnson said that \$18.7 million was deposited into the general fund from tobacco settlement funds in 2003. The general fund allocation was projected to drop by about \$3 million to \$15.8 million, with the remaining amount of settlement funds allocated to prevention programs and public and human health services. This reallocation caused the numbers to look

as if the settlement funds had been decreased, but the difference in numbers was the result of reallocation of the funds and not due to a decrease in the tobacco settlement funds.

## **PLANNING FOR CONSENSUS 2010**

**Susan Fox, Research Analyst, LSD**, discussed a letter recently sent out to legislative leaders explaining that Census Bureau has replaced the long form of the census survey with the American Community Survey (ACS). The ACS will be done on a monthly basis in varying communities all over the United States, so new and fresh data will be continually provided to the Census Bureau. The Census Bureau is asking the legislators to encourage constituents to fill out these surveys because this data is used by the federal government to allocate funds to the states. Ms. Fox said a website is available from the United States Census Bureau, as well as the state data center in the Department of Commerce, that can answer questions about the ACS. She said she was also a resource and offered to write an article for *The INTERIM* to help educate the rest of the Legislature. REP. GILLAN asked Ms. Fox to write the article for *The INTERIM*.

Ms. Fox also provided an update of the issue of redistricting. She reported that there was a Federal Register notice placed in May regarding the establishment of the 2010 Census Redistricting Program and that the United States Census Bureau is asking states to appoint liaisons to work with redistricting efforts. Ms. Fox asked the Council to appoint the Montana liaison and suggested that the appointment of two liaisons would ensure continuity to the redistricting program.

Ms. Fox also explained that there are to be three phases to the redistricting program:

- Phase One will consist of submitting the legislative district lines to the Census Bureau, which will be incorporated into the geographic database. If Montana participates in Phase One, that will allow the State to receive census data by legislative district. There is no cost associated with participating in Phase One, and participation in Phase One is not a prerequisite for participation in Phase Two or Phase Three of the program. The Council has until May 2005 to decide if it wishes to participate in Phase One.
- Phase Two entails the Census Bureau giving the state the opportunity to submit voting precincts to the Census Bureau to be used later. Montana is one of four states that did not participate in this phase in the last census. The Census Bureau has pledged assistance to any state in need of it to achieve this goal. The Council has until 2007 to decide if it wishes to participate in Phase Two. Ms. Fox suggested that this issue may be a good topic for an interim study resolution and would dovetail nicely with the statute requiring the Secretary of State to maintain a voter registration file.
- Phase Three will be when the actual redistricting data from the census is received in April, 2011.

SEN. THOMAS asked if the Census Bureau works directly within a precinct to help establish precinct lines. Ms. Fox said that the Census Bureau expects the counties to do this and that it shouldn't be a difficult project for Montana because approximately 40 counties have Geographic Information Systems in place. The remaining 16 counties are very rural and precinct lines will be simple to do.

REP. GILLAN said she would like to appoint Dave Bohyer, Director, Office of Research and Policy Analysis, LSD, and Ms. Fox as the liaisons to work with the Census Bureau in Phase One of the 2010 census. SEN. THOMAS **moved to appoint** Mr. Bohyer and Ms. Fox as the liaisons. The **motion passed unanimously** on a voice vote.

### **COURT CHALLENGES TO STATE STATUTES**

**Greg Petesch, Legal Director, LSD,** updated the Council on the changes that have occurred in the court cases listed in *Recent Court Challenges to State Statutes* (EXHIBIT #6) since he originally prepared it on June 7, 2004. He discussed changes which have occurred in certain items:

- Item 4 - American Cancer Society v. State of Montana - oral arguments have been made to the Supreme Court and a decision is pending.
- Item 5 - Columbia Falls Elementary School District v. State of Montana - the State filed an appeal on June 7 and the Supreme Court announced it would hear the appeal on an expedited basis. Briefs will be due in September, with oral arguments perhaps as soon as October of 2004. The Court is striving for a decision either prior to or early in the 2005 legislative session.
- Item 10 - Game farm taking cases - rulings in other challenges are being held in abeyance pending final resolution in one of these cases because final resolution will largely determine how the others are handled.
- Item 19 - Federal administrative challenge - the hearings examiner found that SB 424 violated the federal statute in that it was premised on Federal Impact Aid and would affect Impact Aid districts only. The state has 30 days to appeal that ruling.

REP. GILLAN asked what Impact Aid is. Mr. Petesch said Impact Aid districts are those districts containing federal land and are largely military installation areas and reservation districts.

SEN. THOMAS said the media has reported that the ruling on the school funding system was found unconstitutional but that it seemed to him that the ruling indicated it was more an issue of the state not spending enough on the schools. Mr. Petesch said the primary finding in Judge Sherlock's ruling was that the school funding system in place now violates the state constitution because funding is not based upon educationally-relevant factors. The Legislature is deciding how much money is spent on schools without costing out the mandates that the state has imposed on the school districts. Judge Sherlock was particularly careful not to address a level of spending. He ruled that because there are mandates imposed on districts and the funding system is not tied to those mandates, the system is unconstitutional.

Mr. Petesch said he had a synopsis of Judge Sherlock's decision that he would provide to Council members, if they wished to have it. (*Mr. Petesch provided copies of the synopsis of Judge Sherlock's decision to all Council members later in the meeting - see EXHIBIT #13*).

### **PROPOSED FY 2004 & FY 2005 OPERATING PLAN ADJUSTMENTS**

**Karen Berger, Financial Services Manager, LSD,** discussed proposed 2005 biennium operating budget revisions for the LSD (EXHIBIT #7). Ms. Berger said she was requesting two Program 20 operating plan revisions to reflect that the Legislative Council approved each

annual budget separately. The first revision is for FY 2004 and moves \$80,000 from operations to equipment. The second revision is for FY 2005 and moves \$80,000 from operations to equipment; it also moves \$16,949 from operations to personal services and increased personal services by an additional \$7,484 from the LFD for creation of a branchiae personnel officer.

Lois Menzies, Executive Director, LSD, presented a proposal for creating a branch-wide Personnel Officer position. Ms. Menzies reviewed the need for such a position. For example, in-house resources could help ensure that the Legislative Branch is in compliance with increasing complex of human resource laws. Creating this position would also allow managers to focus more time on legislative-related duties. Ms. Menzies proposed that the position:

- would be a full-time employee;
- would support the three divisions (the Legislative Audit, Services, and Fiscal Divisions), as well as the House and the Senate;
- would be assigned to LSD Central Services Office;
- and would report to Ms. Menzies.

The position would provide service in the following areas:

- classification and pay;
- recruitment and selection of new staff;
- performance management;
- policy development and support;
- grievances support;
- safety coordinator; and
- training and managing of personnel records.

Ms. Menzies said the personal services and operational costs associated with this position would be approximately \$56,000 in fiscal year 2005, and about \$54,500 in fiscal 2006. Ms. Menzies said a combination of two vacant part time positions, along with funds reserved for the current human resource contract would be sufficient to fund this position. The target date for having the personnel officer hired is October 1, 2004.

SEN. THOMAS **moved** to approve Ms. Berger's request for LSD budget revisions for fiscal years 2004 and 2005 and Ms. Menzies' proposal for the creation of a personnel officer for the Legislative Branch. The **motion passed unanimously** on a voice vote.

## **2007 BIENNIUM BUDGET PROPOSALS**

Ms. Menzies presented proposals for the 2007 Biennium Interim Committees and Activities Budget (EXHIBIT #8). Ms. Menzies presented the proposals for the following:

- Funding for additional interim committee meetings for review of agency legislation - Page 1, EXHIBIT #8.

SEN. COCCHIARELLA **moved to approve** additional funding for extra interim committee meetings. The **motion passed unanimously** on a voice vote.

- Legislative Council on River Governance (LCRG) funding - Page 1 & 2, EXHIBIT #8;

SEN. COCCHIARELLA **moved** to approve the \$16,350 LCRG budget proposal.

REP. BROWN felt \$16,350 was excessive and **made a substitute motion** for a \$10,000 budget. The **motion passed on a voice vote, with SEN. COCCHIARELLA voting no.**

- Pacific Northwest Regional Economic Region (PNWER) funding - Page 2, EXHIBIT #8;

REP. GILLAN **moved to approve** a PNWER budget of \$44,750 for FY 2006 and FY 2007 expenses.

REP. LASZLOFFY expressed concern about the tangible benefits Montana may or may not receive from participating as a member of PNWER and suggested that the Legislature reconsider its statutory requirement for participation, as reported by Mr. Petesch.

REP. WANZENRIED referred to a letter received at a previous Council meeting from Rep. Dan Hurwitz after he had attended a PNWER meeting, saying that Rep. Hurwitz had written to thank leadership for appointing him to PNWER and that the meeting, in his opinion, had been very worthwhile.

SEN. COCCHIARELLA pointed out that Montana's delegates have often paid for a portion of or all of their expenses when attending PNWER meetings because of the lack of funding and that perhaps, if participation could be funded, tangible results would be more visible.

SEN. THOMAS said he wished to clarify that he has the proxy vote for SEN. GRIMES and SEN. KEENAN. REP. GILLAN's motion to approve a PNWER budget of \$44,750 **passed on a voice vote**, with REP. LASZLOFFY voting no.

- Legislator participation in interstate organizations: National Conference of State Legislatures (NCSL) and Council of State Governments (CSG) and payment of CSG dues - Page 3, EXHIBIT #8;

SEN. THOMAS **moved to approve** the budget request of \$79,650 to cover members' participation in NCSL and CSG and \$145,261 to cover CSG dues for FY 2006 and FY 2007. The **motion passed unanimously** on a voice vote.

### **PROPOSED LEGISLATIVE BRANCH INFORMATION TECHNOLOGY BUDGET FOR 2007 BIENNIUM**

**Hank Trenk, Director, Office of Legislative Information Technology, LSD**, presented the Legislative Branch Computer System Plan outline and budget for FY 2006-2007 (EXHIBIT #9). Mr. Trenk said the final plan and budget would be presented at the September Legislative Council meeting and today's outline should be considered preliminary. He explained that the Legislative Branch Computer System Planning Council is statutorily charged with developing a plan and budget. The plan and budget must then be approved the Legislative Council.

REP. GILLAN commented that the \$3,000 purchase price for laptop computers for legislators seemed high. Mr. Trenk said the computers will have to be heavy duty because they will be used after legislative sessions by legislative employees.

SEN. THOMAS said he did not want a state e-mail account because he already has one and asked if it was going to be possible to have the state e-mails routed to his existing account. Mr. Trenk said the technology is available and that the Information Technology Services Division (ITSD) of the Department of Administration has offered to do this at no extra charge.

SEN. THOMAS stated that he preferred having computer terminals installed in the House and Senate offices, rather than on the floor of the House and Senate.

REP. GOLIE asked if state e-mail accounts would be considered private or public information. Mr. Petesch said if a legislator is conducting public business on public time using public equipment, access to that information is possible by the press or citizens. During a legislative session, the restriction on using government equipment and facilities for private purposes does not apply to the Legislature.

REP. GOLIE asked if he e-mailed another legislator regarding state business, if the e-mail would be subject to privacy protection. Mr. Petesch said probably not, if it involved using public equipment for public business. Mr. Trenk asked if it would make a difference if the legislator was using his personal equipment for public business. Mr. Petesch said e-mails generated from a legislator using his own equipment would prevent public access.

REP. GILLAN asked Mr. Trenk to provide additional information to the Council on how the state e-mail accounts would be used.

REP. LASZLOFFY suggested developing protocols to help educate state e-mail account users in order to eliminate possible problems regarding public and private use.

REP. GILLAN said no action would be taken at this time on this issue but encouraged the members to talk to other legislators about this issue to get a better sense of what their needs are.

SEN. COCCHIARELLA commented that she and her office mate from the last session had difficulty sharing the wiring in their shared office and that she would like to see every House and Senate seat equipped to handle a computer. Mr. Trenk responded that most of the legislators who want access are able to get it.

SEN. COCCHIARELLA also supported the idea of becoming a "paperless" Legislature. Mr. Trenk reported that he had contacted three other "paperless" states and found out that many of the technical impediments to becoming a paperless state can be overcome. He said the question is whether or not the Legislature wants to make the move to become paperless.

### **LEGISLATIVE COUNCIL PROPOSED LEGISLATION**

Ms. Menzies presented Potential Legislation for Legislative Council Sponsorship - 2005 Session (EXHIBIT #10). She said any potential legislation approved today would be presented in bill draft form at the September meeting. The proposed bill draft requests were as follows:

- the Code Commissioner bill;
- repealing the Legislature's authority to assign holdover senators;
- clarifying payment to legislators-elect for pre-session activities;

- simplifying payment of wages to pages;
- revising the definition of "short-term worker";
- reserving funds for large-scale information technology (IT) equipment and systems replacement;
- IT systems impacting Legislative Branch; and
- the feed bill.

SEN. COCCHIARELLA **moved to approve all proposed legislative requests**, as presented by Ms. Menzies. REP. GILLAN clarified that this action would not approve the bill drafts for introduction, only that the requests be drafted for review at the September meeting.

SEN. THOMAS **moved to segregate** the second request in EXHIBIT #10 (repealing the Legislature's authority to assign holdover senators).

**The motion to approve all legislative requests for bill drafting except the request to repeal the Legislature's authority to assign holdover Senators, passed on a unanimous voice vote.**

SEN. THOMAS spoke to his segregation motion, saying that he realized that this issue is sensitive and politically-charged, but maintained that the decision made by the Legislature in assigning holdover senators was constitutional and that 5-1-116, MCA, does not need to be repealed.

REP. GOLIE **moved to draft a bill to repeal 5-1-116, MCA.** The **motion failed on a voice vote.** REP. GILLAN asked for a roll call vote. The **motion failed on a 6-6 roll call vote**, with SEN. GRIMES (SEN. THOMAS has proxy), SEN. KEENAN (SEN. THOMAS has proxy), SEN. THOMAS, REP. BROWN, REP. LASZLOFFY, AND REP MOOD voting no (EXHIBIT #11).

## **ADJOURN**

REP. GILLAN said the next Legislative Council meeting would be September 17, with the possibility of an added day to deal with the SJR 32 Subcommittee on Medical Malpractice Insurance Liability legislative proposals. She said members would be informed of the final meeting dates in early August. The meeting was adjourned at 12:45 p.m.

CI0429 4244dfxa.