



Legislative Council

61st Montana Legislature

SENATE MEMBERS

CAROL WILLIAMS--Vice Chair
JOHN BRUEGGEMAN
JEFF ESSMANN
ROBERT STORY
MITCH TROPILA
DAVID WANZENRIED

HOUSE MEMBERS

DENNIS HIMMELBERGER--Chair
BOB BERGREN
MARGARETT CAMPBELL
TOM MCGILLVRAY
JESSE O'HARA
MIKE PHILLIPS

COMMITTEE STAFF

SUSAN FOX, Executive Director
ROBERT STUTZ, Legal Division Director
DAWN FIELD, Secretary

MINUTES

September 9, 2010

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.**

Please note: These minutes provide abbreviated information about committee discussion, public testimony, action taken, and other activities. The minutes are accompanied by an audio recording. For each action listed, the minutes indicate the approximate amount of time in hours, minutes, and seconds that has elapsed since the start of the meeting. This time may be used to locate the activity on the audio recording.

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COMMITTEE MEMBERS PRESENT

REP. DENNIS HIMMELBERGER, Chair
SEN. CAROL WILLIAMS, Vice Chair

SEN. JOHN BRUEGGEMAN
SEN. JEFF ESSMANN
SEN. ROBERT STORY
SEN. MITCH TROPILA
SEN. DAVID WANZENRIED

REP. TOM MCGILLVRAY
REP. JESSE O'HARA

COMMITTEE MEMBERS EXCUSED/ABSENT

REP. BOB BERGREN
REP. MARGARETT CAMPBELL
REP. MIKE PHILLIPS

STAFF PRESENT

Susan Fox, Executive Director, Legislative Services Division (LSD)
Rob Stutz, Director, Legal Services, LSD
Dave Bohyer, Director, Office of Research and Policy Analysis, LSD
Steve Eller, Computer Systems Manager, Office of Legislative Information Technology, LSD
Hank Trenk, Director, Office of Legislative Information Technology, LSD
Karen Berger, Financial Services Manager, LSD
Dawn Field, Council Secretary

AGENDA & VISITORS' LIST

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

COMMITTEE ACTION

The Legislative Council:

- approved the June 2, 2010, meeting minutes;
- adopted the Legislative Finance Committee's recommendations on performance for appropriations;
- amended and approved the 2011 session calendar;
- approved scheduling a social event for legislators on January 5, 2100;
- adopted proposed rules changes to Joint Rule 40-40, House Rule 40-140, and House Rule 40-160;
- adopted the Computer Systems Planning Council's draft report;
- approved CTA Architect recommendations for interim improvements to the Capitol building;
- approved creation of a legislative space report and a resolution directing the next Legislative Council to follow up on the legislative space issue;
- approved an appropriation transfer of \$17,691 to the Revenue and Transportation Interim Committee for a year's subscription to Moody's economic forecasting service;
- approved the proposed LSD 2013 biennial budget with the 5 percent spending reduction;
- approved processing Program 27 and Program 28 budgets to the Office of Budget and Program Planning after adoption by their respective oversight committees;
- approved Office of Budget and Program Planning legislative requests;
- approved a sponsor's rebuttal form for fiscal notes;
- adopted a media credentialing registration process;
- approved a Option A, a proposal to address committee vote issues, as recommended by the Computer Systems Planning Council;
- approved LC cc11 - Code Commissioner bill as a committee bill;
- approved drafting of the 2011 Session Feed Bill;
- approved a bill draft request from the Economic Affairs Interim Committee to move oversight of the State Compensation Insurance Fund from the State Administration and Veterans' Affairs Interim Committee to the Economic Affairs Interim Committee;
- approved a bill draft request from the Law and Justice Interim Committee to move oversight of the Office of the Public Defender from the State Administration and Veterans' Affairs Interim Committee to the Law and Justice Interim Committee; and
- approved a bill draft to specify that joint appropriations committee members be appointed to interim policy committees and to require that departments report on the implementation of performance measurement standards.

CALL TO ORDER AND ROLL CALL

00:00:01 REP. HIMMELBERGER called the meeting to order at 8:00 a.m. The secretary noted the roll, REP. BERGREN, REP. CAMPBELL, and REP. PHILLIPS were excused (ATTACHMENT 3). **REP. O'HARA moved to approve June 2, 2010, minutes. The motion passed on a unanimous voice vote.**

Introduction of new staff

00:01:33 **Steve Eller, Computer System Manager**, introduced new IT staff members: Dale Matheson, K'lynn Sloan Harris, and Grant Turner. **Dave Bohyer** introduced Megan Moore as LSD's newest staff research analyst. **Susan Fox, Executive Director, Legislative Services Division (LSD)**, introduced Robert Stutz as LSD's new Director of Legal Services.

LFC recommendations on Performance for Appropriations

00:04:31 **Barbara Smith, Senior Fiscal Analyst, Legislative Fiscal Division (LFD)**, discussed an overview of the Legislative Finance Committee's (LFC) proposal to modify performance management as a part of the appropriations process **(EXHIBIT 1)**.

Questions and discussion

00:13:38 SEN. STORY asked about follow-up procedures for the interim, specifically if the interim oversight committees will have a greater role in the process. Ms. Smith said that traditionally, the LFC has handled the process with a certain amount of involvement from the interim committees, but that the LFC will be looking at how to improve the process. SEN. STORY discussed why it would be helpful if the performance measure process included interim committees to a greater extent.

00:16:27 SEN. WILLIAMS agreed that a stronger structure would help and said that the LFC has become more aware of the problems discussed by SEN. STORY.

00:17:49 **SEN. WILLIAMS moved to adopt the recommendations of the Legislative Fiscal Committee, with the caveat that a note outlining SEN. STORY's concerns on how to make the process more comprehensive be given to the LFC.** Ms. Smith said she would address SEN. STORY's concerns and work with her colleagues on alternatives, and that the Council would be given a copy of the document provided to the LFC. **SEN. WILLIAMS' motion passed on a unanimous voice vote.**

STRATEGIC PLANNING INITIATIVES

Progress report

00:21:02 Ms. Fox updated the Council on each initiative, including ideas being developed, progress made to date, and the timeline for implementation **(EXHIBIT 2)**.

00:32:42 Ms. Fox discussed the 2011 proposed session calendar and the suggestion that the number of legislator social events be increased in order to develop stronger relationships between legislators **(EXHIBIT 3)**. She said it would be helpful for planning purposes if the Council adopted the 2011 session calendar.

- 00:36:13 **SEN. WANZENRIED moved to adopt the proposed 2011 session calendar.** SEN. WILLIAMS suggested that the Council schedule a date for a legislative social event before adopting the calendar. SEN. BRUEGGEMAN discussed the transmittal break and suggested a four-day transmittal break, rather than the traditional three-day break. **SEN. BRUEGGEMAN made a substitute motion to amend the proposed calendar to extend the transmittal break through Tuesday, March 1, 2011.**
- 00:40:15 SEN. STORY asked about statutory language regarding per diem and salary when the Legislature is recessed for longer than two days. **Karen Berger, Financial Services Manager, LSD,** said that as per statute, legislators would not be paid per diem for Tuesday, March 1.
- 00:43:18 Ms. Fox noted that all other of the other session dates would be changed also, should the transmittal break date be extended. SEN. TROPILA pointed out that if extended, the 90th legislative day will fall on Good Friday and said he didn't think that was a good idea.
- 00:44:04 **SEN. BRUEGGEMAN's substitute motion to approve the 2011 session calendar as amended carried on a 6-5 roll call vote. REP. BERGREN and REP. PHILLIPS voted yes by proxy (Williams). SEN. TROPILA, SEN. STORY, REP. HIMMELBERGER. REP. MCGILLVRAY, and REP. O'HARA voted no (ATTACHMENT 4).**
- 00:45:45 **SEN. WILLIAMS moved to schedule a legislator social event for Wednesday, January 5, 2011. SEN. WILLIAMS amended her motion to stipulate that the event be "really fun". The amended motion passed on a unanimous voice vote.**

Rules Subcommittee report

- 00:48:57 **Todd Everts, Legal Staff, LSD,** said that the Rules Subcommittee recommended the rules changes to Joint Rule 40-40, House Rule 40-140, and House Rule 40-160.
- Mr. Everts referred to an August 27, 2010 memo from Susan Fox (**EXHIBIT 4**) and to the proposed new language (**EXHIBIT 5**) in his explanation of the proposed change to Joint Rule 40-40. He said that the proposed language would decrease the number of bills that a legislator could request but would also create a "safety valve" for special circumstances.
- 00:51:46 **SEN. STORY moved to adopt the proposed rule change for Joint Rule 40-40, inclusive of the language discussed by Mr. Everts.** The Council members discussed the motion. SEN. WILLIAMS and SEN. TROPILA did not support limiting the number of bills. SEN. ESSMANN and SEN. STORY spoke in favor of the motion.
- 01:04:36 **SEN. STORY's motion carried on a 6-5 roll call vote. REP. PHILLIPS voted yes by proxy (Williams). SEN. TROPILA, SEN. WANZENRIED, SEN.**

WILLIAMS, REP. MCGILLVRAY, and REP. BERGREN (by proxy - Williams) voted no (ATTACHMENT 5).

- 01:04:43 Mr. Everts said that the proposed changes to House Rule 40-140 would require that legislation returned or withdrawn from committee by motion be placed on second reading (Page 2, EXHIBIT 4). He said that adopting the rule would create uniformity between House and Senate.
- 01:06:53 SEN. STORY suggested that specific time limits for placing a bill on second reading be established and discussed several scenarios in which the lack of a time limit can cause problems.
- 01:08:27 SEN. BRUEGGEMAN said that a caveat could be placed in the language to deal with session deadlines. He said that the issue of bills not being placed on second reading was a big problem in the 2007 session and that he wants to make sure a loophole is not left in place that would allow that to happen again. **SEN. BRUEGGEMAN moved to adopt the proposed change in House Rule 40-140 as currently written.** REP. HIMMELBERGER said that between now and the November Council meeting, Mr. Everts would work on proposed changes to the House and Senate rules to address SEN. STORY's concerns.
- 01:10:54 SEN. ESSMANN said that he supports the language as drafted because it allows leadership to retain a certain amount of control. SEN. WILLIAMS said that if a bill is passed through committee, it should be voted on on the floor. She said she supports the motion and would support a time limit also.
- 01:15:08 **SEN. BRUEGGEMAN's motion to adopt the proposed change to House Rule 40-140 passed on a unanimous voice vote.**
- 01:16:13 Mr. Everts said that the proposed change to House Rule 40-160 would clean up archaic language (**EXHIBIT 6**). **SEN. WILLIAMS moved to adopt the proposed changes to House Rule 40-160. The motion passed on a unanimous voice vote.**

Review orientation agenda - leadership training and orientation

- 01:18:19 Mr. Everts discussed an outline of the 2010/2011 Legislative Rules training (**EXHIBIT 7**). He said that staff is working on a rules reference guide to allow legislators to quickly research rules questions (**EXHIBIT 8**). Mr. Everts said he would be staffing the Rules Committee in the 2011 Legislature as part of the transition from Mr. Petesch to Mr. Stutz.
- 01:20:01 SEN. STORY said it would be helpful to have the lead staff person for each caucus to review the leadership manual in an effort to assist leadership in staying on track.

BREAK

- 01:23:27 REP. HIMMELBERGER recessed the Council until 9:45 a.m.

IT LONG-RANGE PLANNING

01:42:42 **Hank Trenk, Director, Office of Legislative Information and Technology (OLIT)**, reviewed the timeline of the Computer System Plans and subsequent work of the Computer Systems Planning Council (CSPC) in developing long-range plans for legislative information technology needs. *(Ms. Fox summarized the recommendations in an August 30, 2010, memo mailed to the Legislative Council (EXHIBIT 9)).*

01:48:32 **Steve Eller, OLIT**, provided a brief overview of the project, noting that a \$225,000 vendor contract for analysis and study of the current information technology systems was awarded to XMaLpha. He said that work has continued through the calendar year on analysis and documentation of the processes and systems necessary to Montana's legislative process.

XMaLpha Report on IT systems and process analysis

01:50:22 **Dale Waldt, XMaLpha**, explained (via polycom phone) the process used to gather, document, analyze, and evaluate the information. He said his recommendations are based on his findings and noted that there are several significant activities that will need to be pursued very soon because of a quickly shrinking window of opportunity.

01:53:33 Mr. Eller reviewed a summary of Mr. Waldt's recommendations (**EXHIBIT 10**). He said that the work would not be easily done and would take time, and that plans must be made accordingly.

01:59:14 Mr. Waldt discussed three different options (Page 2, EXHIBIT 10). He pointed out that each option includes a funding estimate and a list of the projects that would be completed within that option.

Committee questions and discussion

02:04:12 REP. MCGILLVRAY asked several questions regarding the XMaLpha recommendations, including what the word, "repository" means in the context used in the recommendations, what is the likelihood of data being lost in a crisis situation, what exactly "crisis" means in the context of the recommendations, time efficiencies, and why the LAWS database should be unified. Mr. Waldt responded to each of his questions. He suggested that the Council contact directly several other states that have experienced failed systems and listed several states. Mr. Trenk added that because no one knows when the current systems will fail or when support will completely disappear, and because the current system is at the end of its life cycle and a minimum of four years will be needed to replace the systems, it is a situation of some urgency.

02:12:33 SEN. ESSMANN asked about the cost for the unification of LAWS. Mr. Trenk referred to page 2 of EXHIBIT 10 and said that currently, LSD pays about \$300,000 per biennium. *(Karen Berger, Financial Services Manager, LSD, confirmed this later in the meeting.)*

02:13:47 SEN. STORY asked about the cost of sharing versus single-user systems and if the decision is made to go to a new database, would it be an in-house system. Mr. Trenk said the new system would be in-house. SEN. STORY discussed

several concerns regarding how the DOA budget could be affected by a completely in-house system.

- 02:17:47 SEN. ESSMANN asked about creating savings through use of temporary staff versus permanent staff. Ms. Fox explained how potential combining of positions, anticipated retirements, and new system efficiencies should combine and may result in cost savings.
- 02:20:37 In response to a question from SEN. STORY, Mr. Waldt said that while cost issues are important, the LSD is also facing a somewhat unique circumstance with the anticipated retirements of six employees, each of whom has a great deal of institutional knowledge and is critical to the legislative process. He said that the processes they oversee have been documented but stressed the importance of making the needed changes before they leave, in order to decrease the risks.
- 02:23:13 SEN. TROPILA asked about the specific dollar cost to Oregon when its system failed. Mr. Trenk said he knew of at least \$3 million in costs. Ms. Fox added that that amount did not include litigation expenses. She said that Oregon staff has encouraged Montana to discuss its situation with them before making any decisions, in the hope that Montana will be able to avoid some of the pitfalls Oregon has encountered. Ms. Fox agreed that risk is involved but pointed out that important institutional knowledge has been well-documented.
- 02:26:22 REP. MCGILLVRAY asked if XMaLpha would make the changes. Mr. Waldt said that his company is interested and is available but is willing to recuse itself, in the interest of the process moving forward.
- 02:27:25 SEN. STORY said the bottom line is the budget. He asked about the projected life expectancy of a new system and how it might be financed. Mr. Waldt said that the life expectancy of each component in a system differs but said that Minnesota's system, for example, is now 7 years old and still functioning well.
- 02:31:34 Ms. Fox discussed a second project, which was to document the Legislative Fiscal Division systems and processes (Page 2, EXHIBIT 9). Mr. Eller said that more information would be available at the November Council meeting.
- 02:32:59 SEN. STORY said it is important that the operating systems between the LFD and the Office of Budget and Program Planning (OBPP) in the Governor's Office be compatible.
- Mr. Waldt, before leaving the meeting, cautioned the Council against purchasing "off the shelf" software for a new bill drafting system. He said it is important that it be customized, which is why it takes so long to get into place.
- 02:34:46 **Amy Carlson, Legislative Fiscal Analyst, LFD**, in response to SEN. STORY's comments, discussed the House Bill 2 automation issue between the LFD and the OBPP, including statutory requirements.

- 02:39:43 Ms. Fox noted that the CSPC reviewed both of XMaLpha's proposals. Regarding the LSD process and systems, Ms. Fox said that the CSPC adopted a motion stating that the projects have merit and if funded, the best approach may be funding through a bond issue for capital improvements. She said that the IT long-range planning bill (HB 10) may be an appropriate funding source. Regarding the LFD processes, Ms. Fox said that the IT Reserve Fund or regular budget may be the appropriate funding mechanism. Ms. Fox discussed other measures available to leverage efficiencies and funding.
- 02:41:57 SEN. BRUEGGEMAN asked what the current balance of the IT Long Range account is. Ms. Fox said it is approximately \$350,000 right now but that it will be about \$600,000 at the end of the next biennium.
- 02:43:26 SEN. STORY asked about the timeline and costs of a new system. Mr. Trenk said that an RFP would be prepared during the 2011 session and that he would be ready to let it immediately after session.

PRELIMINARY BUDGET DISCUSSION

Computer Systems Planning Council and IT Budget recommendations

- 02:45:26 Mr. Trenk reviewed draft Computer Systems Planning Council report for the 2013 biennium (**EXHIBIT 11**).
- 02:50:21 The Council members discussed whether desk phones are still needed by legislators, considering today's use of computers and cellular telephones; and the potential for significant savings if their use was reduced or eliminated. SEN. STORY suggested that the question be asked of legislators during Legislator Orientation in November.
- 02:56:25 SEN. STORY and SEN. BRUEGGEMAN asked additional questions about maintenance contracts for printers and servers; and if leasing, rather than purchasing, equipment is being considered. Mr. Trenk responded.
- 03:00:53 **SEN. WANZENRIED moved to adopt the Computer System Planning Council's draft report. The motion passed on a unanimous voice vote.**

Recommendations from Budget Subcommittee

- 03:01:29 SEN. WILLIAMS briefly recapped the work of the Budget Subcommittee.
- 03:04:12 Ms. Fox said reviewed a summary of the Budget Subcommittee's recommendations (**EXHIBIT 12**), which included the following budget items: IT allowance, interstate organization dues, TVMT, annotations and legal publications, the CSPC budget, interim committee issues and budgets, the legislative intern program, and the Feed Bill.
- 03:09:25 Ms. Fox referred to LCLC02 (revise laws related to legislative publications and printing) in her discussion of the annotations and legal publications (**EXHIBIT 13**). She said it would increase the cost of the MCAs from \$10 to \$100 for legislators.

- 03:13:52 **Karen Berger, Financial Services Manager, LSD**, reviewed the 2013 biennium operating budgets for Program 20 (Legislative Services Division) and Program 21 (Interim committees and activities) **(EXHIBIT 14)**. Ms. Berger also discussed the 5 percent reduction plan **(EXHIBIT 15)** and a dues history document for the National Conference of State Legislatures (NCSL), the Council of State Governments (CSG), Pacific NorthWest Economic Region (PNWER), Legislative Council on River Governance, and the National Conference of Commissioners on Uniform State Laws (NCCUSL) **(EXHIBIT 16)**.
- 03:22:50 The Legislative Council discussed a number of topics related to the national organization dues issue, including a comparison of the organizations, the services and benefits each provides, and the value and usefulness of membership to staff and legislators. Ms. Fox said that she feels that membership in the professional organizations is very valuable to her personally, as well as to her staff. She discussed the value and benefits and said that NCSL membership is particularly useful to staff.
- 03:29:31 SEN. ESSMANN said that there is concern about certain NCSL activities at the national level. He asked Ms. Fox if this has been discussed with her counterparts and if there is any intention of addressing the concerns. Ms. Fox said that she is aware of the concerns but has not discussed them with NCSL.
- 03:32:10 SEN. ESSMANN asked for list of NCSL resolutions that have come out of its national meetings in order to identify the issues the dues would be supporting. Ms. Fox said she would provide a list.
- 03:32:36 SEN. TROPILA said that it appears to him that staff is not as concerned about what is going on nationally as it is about the support and information it receives as a member of NCSL. Ms. Fox said that is correct.
- 03:33:24 Ms. Berger explained the "pool" concept of paying the national dues **(EXHIBIT 17)** and answered a number of questions from Council members on how the pool would work. SEN. WANZENRIED cautioned that difficult cuts will have to be made, perhaps even beyond the proposed 5 percent cuts.
- 03:47:02 The Council recessed for lunch until 1:00 p.m.

LUNCH BREAK

LEGISLATIVE SPACE

CTA report on Legislative Space Study

- 05:01:35 **Keith Rupert, Chairman of the Board, CTA Architects Engineers, Billings**, provided a brief review of the scope of CTA's work and emphasized that the recommendations are those of CTA, and not the Legislative Space Subcommittee.
- 05:04:51 **Bob Franzen, Senior Project Manager, CTA Architects Engineers**, presented a Capitol Building Master Plan which included two options **(EXHIBIT 18)**. The

PowerPoint presentation included recommendations for interim improvements and project cost estimates.

Space Subcommittee Report

- 05:44:44 SEN. WANZENRIED said that CTA did a good job of providing a template on which the Legislative Council could begin to develop a business plan to deal with space issues. He said that the space issue is not going to go away and the building, as currently configured, is not very welcoming to citizens who wish to participate in the legislative process. Even though budget issues may prevent much from being done in the short term, the issue must remain on the "radar screen" of the 2011 Legislature. SEN. WANZENRIED recommended that a report be forwarded on the full Legislature for discussion and consideration, in order that it may fully understand the issue.
- 05:49:59 SEN. STORY asked what the process is to get a new building in the queue for construction. **Tom O'Connell, State Architect, Architect & Engineering Division, DOA**, explained the structured process through which a request must go. He said that the Long Range Building Program compiles a list of requests that is presented the Legislature for approval. He said that it is also possible for an individual legislator to bring forth a bill with a building request in it.
- 05:52:35 SEN. ESSMANN asked for information on the status of other statehouses in the country to find out what agencies are housed in their capitol buildings, saying that the information would aid the Council in its discussions. Ms. Fox said she would get the information.
- 05:55:47 **SEN. ESSMANN moved to proceed with the interim improvements, as recommended in the CTA report.** He said the improvements would be money well-spent because the upgrades would be of immediate benefit and are relatively minor expenses. SEN. BRUEGGEMAN said that the expenditures may qualify for the state Building Energy Conservation Program and suggested that the Council look into the program as a potential funding source. **The motion passed on a unanimous voice vote.**
- 05:59:02 The Legislative Council members discussed how best to proceed from this point. It was agreed that the best course of action would be to compile a report, which would include the CTA findings and the information requested by SEN. ESSMANN. The report would be reviewed by the Council at its next meeting and a decision would be made at that time on if the report would be presented to the 2011 Legislature and present it to the 2011 Legislature, and that the Council would preview the report at its next meeting. **SEN. STORY moved to create a report for review and possible adoption at the next Council meeting; and to also prepare a resolution directing the next Legislative Council to follow up on the issue, including making a decision on if a building request should be made to the Long Range Building Program for 2013. The motion passed on a unanimous voice vote.**

BUDGET DISCUSSION AND ADOPTION -- continued

Interim Committee Budgets

- 06:07:36 Ms. Berger discussed an interim committee and activities budget and expenditure report **(EXHIBIT 19)**. Ms. Fox noted that the Energy and Telecommunications Interim Committee may make a request for additional funding from the Discretionary/Emerging Issues fund in order to pay for its last meeting. She said the Council would also discuss a letter from the Revenue and Transportation Interim Committee (RTIC) requesting money from the emerging issues fund to pay for a one-year subscription to Moody's Economy.com economic forecasting service, for a cost of \$17,691 **(EXHIBIT 20)**.
- 06:09:20 **Sen. Kim Gillan, SD 24, Billings**, explained how the forecasting service would benefit RTIC in its work, particularly in crafting more accurate revenue estimates.
- 06:13:47 REP. MCGILLVRAY asked about the accuracy of Global Insights (*to which LFD already subscribes*) and Moody's forecasting services in previous years. **Terry Johnson, Principal Fiscal Analyst, LFD**, said that LFD staff opinion is that while each company does a better job than the other in certain areas, overall the services are very similar to one another. He said that Utah, for example, subscribes to Moody's and Global Insights because it wants a second opinion.
- 06:17:33 SEN. STORY said there are other companies who offer economic forecasting services and asked if they were considered. Sen. Gillan said no, because the level of detail would be too macro for RTIC's purposes. SEN. ESSMANN said his opinion is that Moody's and Global Insights provide the best information. REP. HIMMELBERGER questioned Sen. Gillan about the timing of the request in relation to the revenue estimate process. SEN. WILLIAMS asked Mr. Johnson to discuss the LFD's history with Global Insights forecasting services. Mr. Johnson did so. REP. MCGILLVRAY asked if the Montana State University and University of Montana economists are consulted as part of economic forecasting/revenue estimate process and if their forecasts temper the process. Mr. Johnson said the LFD does use information provided by university economists where appropriate.
- 06:32:29 **SEN. WANZENRIED moved to approve the appropriation transfer of \$17,691, as requested by the RTIC.** The Council discussed the motion. **The motion passed on a 7-2 voice vote. REP. MCGILLVRAY and REP. HIMMELBERGER voted no.**

Interstate Organizations

- 06:41:45 Ms. Fox asked the Council to refer to a report on interstate organizations with a synopsis of each organization **(EXHIBIT 21)** and to a budget report for each organization **(EXHIBIT 22)**. Sen. Kim Gillan presented information on the Pacific NorthWest Economic Region (PNWER) organization and the benefits of membership.
- 06:46:16 **Karen Powell, Montana legislative liaison to the National Conference of Commissioners on Uniform State Laws (NCCUSL)**, discussed the purpose of

NCCUSL and the benefits of membership (**EXHIBIT 23, EXHIBIT 24, and EXHIBIT 25**).

06:50:33 **Sen. Bradley Hamlett, SD 10, Cascade County**, discussed the purpose and benefit of membership in the Legislative Council on River Governance.

06:52:54 The Legislative Council discussed the issue of participation and membership in interstate organizations. Topics included the 5 percent budget reduction and the cost of membership for the 2013 biennium, paying partial dues versus full dues or no dues, the value and benefit of participation and membership, and the recommendation of the Budget Subcommittee to partially fund dues.

Adopt Legislative Services Division and submission of Legislative Audit and Fiscal Divisions budgets for 2012-2013 biennial budget (EXHIBIT 15)

07:01:26 **SEN. WILLIAMS** moved to accept the proposed LSD 2013 biennium budget (**Program 20 and Program 21**) with the 5 percent spending reduction. The Legislative Council discussed the motion at length. REP. HIMMELBERGER said that by passing the motion, the Council would provide guidance to staff and that there would be opportunities to make changes and adjustments, if needed.

07:22:01 **SEN. WILLIAMS'** motion passed on a 10-1 roll call vote. **REP. BERGREN** and **REP. PHILLIPS** voted yes by proxy (Williams). **REP. MCGILLVRAY** voted no (**ATTACHMENT 6**).

07:24:00 **SEN. STORY** moved to process the Program 27 (LFD) and Program 28 (LAD) budgets through to the OBPP, once approved by their respective oversight committees. The motion passed on a 8-1 voice vote. **REP. MCGILLVRAY** voted no.

2011 SESSION PREPARATION

OBPP Legislation Requests

07:25:29 **Amy Sassano, Deputy Budget Director, OBPP**, distributed a list of 2013 biennium legislation requests and noted that the list, first provided to the Council at its June meeting, contained four new requests (bottom of page). Ms. Sassano reviewed each new request (**EXHIBIT 26**).

07:30:55 **SEN. STORY** discussed his concern that the bill title to "generally revise school funding" is too broad. **SEN. WANZENRIED** said that the Council's approval is simply a *pro forma* activity to get the legislation requests into the bill drafting system. He recommended that the requests be advanced, as is.

07:35:30 **SEN. WANZENRIED** moved to approve the OBPP legislation requests. **SEN. ESSMANN** made a substitute motion to segregate the first request (generally revise school funding) and approve the three remaining three requests for drafting. The substitute motion passed on a unanimous voice vote. **REP. PHILLIPS** and **REP. BERGREN** voted yes by proxy (Williams).

07:37:30 **SEN. ESSMANN moved to approve the segregated bill draft request with an amended short title of "adopt statutory formula changes in school funding formula".** REP. HIMMELBERGER asked if, procedurally, it was possible for the Council to approve a bill title that wasn't requested. The Council discussed the matter. SEN. ESSMANN said that if the purpose of the bill is to adopt inflation factors, his amended title would accommodate the purpose. SEN. WILLIAMS opposed the motion, saying that the Council imposed this step on the executive branch and that it would be a mistake for the Council to intervene in this way. She said that the bill will get drafted with or without the Council's approval and that any objections to the bill can be addressed during the legislative session. SEN. STORY said that SEN. WILLIAMS made a good point. SEN. WANZENRIED reiterated that Council approval is a formality, not an endorsement.

07:45:38 REP. HIMMELBERGER said he would vote against the motion and agreed that the approval process is a good faith motion on the Council's behalf. He also made the point that goodwill must go both ways and said his experience has been that the legislature has not always been treated as respectfully as it should be by the Governor. **SEN. ESSMANN's motion to approve the segregated bill with an amended title failed on a 2-10 roll call vote. REP. CAMPBELL voted no by proxy (Tropila) and REP. BERGREN and REP. PHILLIPS voted no by proxy (Williams). SEN. BRUEGGEMAN and SEN. ESSMANN voted yes. (ATTACHMENT 7).**

07:48:19 **SEN. WILLIAMS moved to approve the OBPP bill draft request to generally revise school funding. The motion passed on a 9-3 roll call vote. REP. BERGREN and REP. PHILLIPS voted yes by proxy (Williams) and REP. CAMPBELL voted yes by proxy (Tropila). SEN. ESSMANN, SEN. STORY, and REP. MCGILLVRAY voted no (ATTACHMENT 8).**

Session committee work loads -- any changes proposed for 2011??

07:51:46 Ms. Fox asked if there are any recommended changes to standing committees **(EXHIBIT 27)**. No changes were recommended.

Media credentialing -- review draft policy

07:53:03 Ms. Fox referred to a sample copy of a media registration form for Capitol access **(EXHIBIT 28)** and said that Gayle Shirley, Legislative Information Officer and she created the registration form based on the recommendations given by media professionals and Council members at the June meeting.

Public Comment

07:54:25 **John Barrows, Executive Director, Montana Newspaper Association and Vice President, Montana Freedom of Information Hotline,** testified in support of the proposed registration procedure.

07:57:39 **SEN. WANZENRIED moved to adopt the proposed media credentialing registration process. The motion passed on a unanimous voice vote.**

Session calendar

REP. HIMMELBERGER said that the session calendar was approved in the morning portion of the meeting.

Fiscal note -- approval of sponsor's rebuttal form

07:58:22 Ms. Fox reviewed the issue and noted that Jon Moe, Fiscal Analyst, LFD, prepared the rebuttal form (**EXHIBIT 29**). **SEN. WANZENRIED moved to adopt the sponsor's rebuttal form.** The Council members briefly discussed the motion. **The motion passed on a unanimous voice vote.**

Federal mandates discussion re: Health Care Reform

08:01:24 SEN. ESSMANN said that he was asked by Sen. Aubynn Curtis to bring this issue forward and said that the fiscal impacts of the federal legislation could be significant in 2015. **SEN. ESSMANN moved to request that all agencies with budgets that may be affected by federal mandates prepare an analysis for the Legislature.** SEN. WILLIAMS opposed the motion and said that there are not enough facts available at this time to justify such a request and that agencies are very busy preparing for the upcoming session. SEN. WANZENRIED asked that information provided at a healthcare forum held in June be looked before making such a request. He said that most of the information is already available but will be estimates only. SEN. STORY said that if the information is already available, it would not be an imposition to ask the agencies for it. SEN. ESSMANN said he thought that agencies could finish preparing for the legislation session and then begin work on the request in the winter months. **The motion failed on a 6-6 roll call vote. SEN. TROPILA, SEN. WANZENRIED, SEN. WILLIAMS, REP. BERGREN (Williams proxy), REP. CAMPBELL (Tropila proxy), and REP. PHILLIPS (Williams proxy) voted no (ATTACHMENT 9).**

Committee votes

08:08:32 Mr. Trenk presented four potential solutions for the committee votes issues discussed by the CSPC at its June meeting (**EXHIBIT 30**).

08:14:45 **SEN. BRUEGGEMAN moved that Legislative Council request that , in preparation for the session, work on developing the mechanics to get the final vote as a bill comes out of committee and be scanned and uploaded into the database.** SEN. BRUEGGEMAN was asked to refine his motion. **SEN. BRUEGGEMAN restated his motion to request that Option A, as discussed by Mr. Trenk, be approved.**

08:16:47 SEN. STORY did not support the motion, saying the system is fine as is. REP. MCGILLVRAY supported the motion and said it is a good idea to allow quick access to voting records.

08:19:04 Mr. Trenk said the solution would take about a week of staff time but would incur no additional expense. SEN. WANZENRIED said that there is an increased demand for transparency and supported the motion. **The motion passed on a voice vote. SEN. STORY and SEN. ESSMANN voted no.** (No proxies were voted.)

Council bill draft requests and recommendations from other interim committees

- 08:21:11 Ms. Fox reviewed a list of eight Council bill draft requests (**EXHIBIT 31**):
- Code Commissioner report (**EXHIBIT 32**) and LC cc11 -- Code Commissioner Bill (**EXHIBIT 33**);
 - 2011 Regular Session Feed Bill;
 - LC 3334 -- minutes bill (**EXHIBIT 34**);
 - LC 3333 -- 1/2 day pay option (**EXHIBIT 35**);
 - chairman rotation;
 - Legislative Council appointments from joint subcommittee;
 - publications; and
 - space.
- Ms. Fox also referred the Council to three letters from interim committees requesting statutory changes and gave a brief explanation of each request:
- Law and Justice Interim Committee (LJIC) request place oversight of the Office of State Public Defender with the LJIC, rather than the State Administration and Veterans' Affairs Interim Committee (SAVA) (**EXHIBIT 36**);
 - Economic Affairs Interim Committee (EAIC) request to place oversight of State Compensation Insurance Fund with the EAIC from SAVA (**EXHIBIT 37**); and
 - Education and Local Government (ELG) Interim Committee request to expand from 12 to 16 members (**EXHIBIT 38**).
- 08:23:43 **Lee Heiman, Code Commissioner, LSD**, discussed the Code Commissioner Bill Report for 2010 (EXHIBIT 32) and companion bill draft, LC cc11 (EXHIBIT 33). **SEN. WANZENRIED moved to approve LC cc11 - code commissioner bill as a committee bill. The motion passed on a unanimous voice vote.**
- 08:29:50 **SEN. WANZENRIED moved to approve the bill draft request for the 2011 Feed Bill. The motion passed on a unanimous voice vote.**
- 08:30:06 After discussion, the Council agreed that it would not take action on the ELG request to expand membership from 12 to 18 members (EXHIBIT 39).
- 08:32:45 **REP. MCGILLVRAY moved to accept the EAIC's request (EXHIBIT 37) to move oversight of State Compensation Insurance Fund from SAVA to EAIC. REP. MCGILLVRAY amended his motion to include a draft bill to reflect the statutory change.** SEN. WANZENRIED said that a more efficient method to deal with these types of administrative issues would be to give the Legislative Council the authority to make these adjustments. He suggested that the issue be pursued during the next interim. **The motion passed on a unanimous voice vote.**
- 08:36:30 **SEN. WANZENRIED moved to approve a bill draft to move oversight of the Office of State Public Defender to the Law and Justice Interim Committee, as requested by the LJIC (EXHIBIT 36). The motion passed on a unanimous voice vote.**

- 08:37:32 **SEN. WANZENRIED moved to approve a bill draft request to give the Legislative Council the authority to make administrative changes.** The Council discussed the motion, with input from Ms. Fox. SEN. STORY cautioned against including the motion in the omnibus bill and suggested that the issue be studied by legal staff before a motion is approved. It was agreed that legal staff would study the issue and have a proposal to review at the November meeting. **SEN. WANZENRIED withdrew his motion.**
- 08:40:05 **SEN. ESSMANN moved to approve a bill draft to specify that joint appropriations subcommittee members be appointed to interim policy committees and to require that departments report on their implementation of performance measurement standards.** He said the bill draft would require analysis by staff and asked that it be on the November meeting agenda. SEN. STORY explained how appointments have been made in the past and agreed it would be helpful to have the people who oversaw the agency budgets in the appropriations process to sit on the oversight committees.
- 08:43:00 The Council discussed the issue. Ms. Fox said that some of the structural work was done for the last session and that she would have time to compile the information for the November meeting. SEN. WILLIAMS said she had reservations about the measure because it could take away some of leadership's prerogative. SEN. ESSMANN said the measure would create a response loop between the legislature and the agencies, which would allow the legislature to make more informed decisions. SEN. WILLIAMS discussed her experience with performance measures on the LFC and cautioned the Council to consult with the LFC before approving SEN. ESSMANN's request. **SEN. ESSMANN withdrew his motion.**

OTHER BUSINESS, STAFF DIRECTIONS, FUTURE MEETING DATES

- 08:51:35 SEN. WILLIAMS spoke on behalf of REP. PHILLIPS regarding the Cooper v. Glaser opinion and referred to the Aug. 27 memo reflecting REP. PHILLIPS' suggestions on how to instruct and/or remind legislators of the importance of comments offered on the floor (**EXHIBIT 39**). After discussion, it was agreed that the issue would be addressed at legislator orientation and in the *Interim* newsletter, in an effort to reach as many legislators as possible.
- 08:58:51 The Council agreed to postpone discussion on the administrative manual until the following interim.
- 08:59:39 **SEN. STORY moved to approve LC 3333 -- half-day pay bill (EXHIBIT 35).** The Council discussed what parameters the bill draft should include. **The motion failed on a 4-7 roll call vote. SEN. BRUEGEMAN, SEN. ESSMANN, SEN. STORY, and REP. HIMMELBERGER voted yes. REP. BERGREN (Williams),**

REP. CAMPBELL (Tropila), and REP. PHILLIPS (Williams) voted no by proxy. REP. MCGILLVRAY did not vote (ATTACHMENT 10).

Next meeting date

09:08:50 The Council members agreed to set the next Council meeting date for the afternoon of Tuesday, November 16, 2010.

Public Comment

09:10:54 No public comment was given.

ADJOURNMENT

With no further business before the Council, REP. HIMMELBERGER adjourned the meeting at 5:14 p.m. The next Legislative Council meeting is scheduled for November 16, 2010, in Helena.

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