

**Council Senate Members**

JOHN BRUEGGEMAN  
JEFF ESSMANN  
JESSE LASLOVICH  
ROBERT STORY JR  
DAVID WANZENRIED  
CAROL WILLIAMS



**Council House Members**

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

## Montana Legislative Council

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# MINUTES

June 26, 2009

Room 102, State Capitol  
Helena, Montana

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.

An electronic copy of these minutes and the audio recording may be accessed from the Legislative Branch home page at <http://leg.mt.gov>. On the left-side column of the home page, select *Committees*, then *Interim*, and then the appropriate committee.

To view the minutes, locate the meeting date and click on minutes. To hear the audio recording, click on the Real Player icon. Note: You must have Real Player to listen to the audio recording.

### **COMMITTEE MEMBERS PRESENT**

SEN. JOHN BRUEGGEMAN  
SEN. JEFF ESSMANN  
SEN. JESSE LASLOVICH  
SEN. ROBERT STORY JR  
SEN. DAVID WANZENRIED  
SEN. CAROL WILLIAMS

REP. BOB BERGREN  
REP. MARGARETT CAMPBELL  
REP. DENNIS HIMMELBERGER  
REP. TOM MCGILLVRAY  
REP. JESSE O'HARA  
REP. MIKE PHILLIPS

## **STAFF PRESENT**

Susan Fox, Executive Director, Legislative Services Division (LSD)  
Greg Petesch, Director, Legal Services, LSD  
Dawn Field, Council Secretary, LSD

## **AGENDA & VISITORS' LIST**

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

## **COMMITTEE ACTION**

The Legislative Council:

- elected REP. HIMMELBERGER to serve as Presiding Officer for the 2009-2010 interim;
- elected SEN. WILLIAMS to serve as Vice Presiding Officer for the 2009-2010 interim;
- approved the May 27, 2009, meeting minutes, as written;
- approved leadership recommendations for legislator appointments to interstate committees;
- approved the proposed 2011 biennium Program 20 budget;
- approved the granting of blanket authority for LSD to deal with retirement pay outs;
- approved the proposed 2011 biennium Program 21 budget with certain exceptions;
- approved 2007 feed bill reversions;
- approved proposed adjustments to legislator reimbursement rates; and
- approved changes in interim committee minutes requirements.

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

00:00:03 SEN. STORY called the meeting to order at 12:00 p.m. The Secretary took roll, all members were present (ATTACHMENT #3).

## **NOMINATION & ELECTION OF OFFICERS**

REP. BERGREN nominated REP. HIMMELBERGER to be presiding officer. He was elected on a unanimous voice vote. REP. HIMMELBERGER asked for nominations for vice presiding officer. REP. O'HARA nominated SEN. WILLIAMS. She was elected on a unanimous voice vote.

## **APPROVAL OF MAY 27, 2009, MEETING MINUTES**

00:03:36 SEN. WANZENRIED moved to adopt the May 27, 2009, meeting minutes, as written. The motion passed on a unanimous voice vote.

## **STAFF UPDATES**

00:04:23 Susan Fox, Executive Director, Legislative Services Division (LSD), provided a staff update. Greg Petesch, Director, Legal Services, LSD, was present to receive a 30-year pin in acknowledgment of his years of service to the State of Montana. REP. HIMMELBERGER congratulated Mr. Petesch and thanked him for his valuable service to the legislature.

## **APPOINTMENTS TO INTERSTATE COMMITTEES**

00:05:51 Ms. Fox reviewed a handout listing leadership's recommendations for appointments to the National Congress of State Legislatures (NCSL) (EXHIBIT #1) and the process through which legislators access funding to assist with expenses when attending events sponsored by NCSL or the Council of State

Governments (CSG) (Program 21 Activity Budgets - EXHIBIT #2). **SEN. WANZENRIED moved to approve the recommendations. The motion passed on a unanimous voice vote.**

00:12:30 REP. HIMMELBERGER said that many legislators are not aware of certain opportunities to them, such as participation in NCSL and CSG, and asked if more could or should be done to make them aware. He also discussed his personal concerns regarding how compensation and reimbursement from the Program 21 Activities Budget has been handled in the past and wondered if more Legislative Council involvement in the process would be of help. Ms. Fox said that an effective way to address concerns would be to add a webpage to the Legislature's website specifically for this type of information, saying that it would ensure that the information is accessible to all legislators. SEN. STORY agreed that most legislators do not know what is available to them but said that taking additional time off from work and family are also deterrents to participating in additional programs and activities. He agreed with REP. HIMMELBERGER that the budget should be handled in a more efficient manner.

### **BUDGET ITEMS**

#### **Overview of LSD 2011 Biennium Budget**

00:32:48 Ms. Fox discussed highlights of the 2009 legislative session costs (EXHIBIT #3) using a spreadsheet of the Legislative Branch 2011 biennium budget (EXHIBIT #4).

00:40:13 **Karen Berger, Financial Services Manager, LSD**, discussed the Program 20 biennial operating plan budget and the Branch Retirement Termination Reserve Account (EXHIBIT #5). She said she was before the Council to request the Council's approval of the biennial operating plan and to grant LSD blanket approval authority to process all eligible termination costs occurring in the 2011 biennium.

00:44:43 **REP. CAMPBELL moved to approve the 2011 biennial Program 20 operating plan budget. The motion passed on unanimous voice vote.**

00:49:08 SEN. STORY, REP. BERGREN, and Ms. Berger discussed specific concerns relating to how and why program transfers are used to pay retirement costs.

00:53:25 **REP. CAMPBELL moved to approve Ms. Berger's request for blanket approval authority for budget transfers to retirement costs in the 2011 biennium. The motion passed on a voice vote, with REP. BERGREN, REP. MCGILLVRAY, REP. O'HARA voting no.**

#### **Review of Interim Committee Budgets**

00:55:13 Ms. Berger reviewed the 2011 biennium Program 21 operating budget (EXHIBIT #5) and asked that the Council approve it. REP. PHILLIPS noticed that the operating budget for the State Administration and Veterans' Affairs Interim Committee (SAVA) is \$273,000 and asked if the money will be used for the retirement systems study requested in HB 659. Ms. Berger said yes. Ms. Fox said that the SAVA was in the process of approving its work plan, which would

specifically address how the money would be spent. REP. PHILLIPS asked why it is necessary for the Council to approve the budget when the 2009 Legislature has already done so. Mr. Petesch said Montana statute requires that an operation plan must be adopted by the approving authority before monies can be expended. **SEN. WILLIAMS moved to approve the Program 21 operating budget.** SEN. STORY thought it would be wise to isolate the HB 659 funding until SAVA adopts a formal work plan. SEN. PHILLIPS agreed. **SEN. WILLIAMS withdrew her motion. SEN. STORY moved to approve the 2011 biennium Program 21 operating budget with the exception of the \$200,000 funding provided for in HB 659. The motion passed on a unanimous voice vote.**

01:04:17 Ms. Fox said that the last page of EXHIBIT #5 is an update on the interim committee and activities budget, noting that there is \$50,000 allocated for emerging issues which is under Council control. In response to questions regarding the retirement reserve, she said she would update the Council at each meeting regarding staff retirements, new hires, etc.

01:07:56 SEN. ESSMANN asked about efforts in the 2009 session to increase transparency and access to government information. Ms. Fox said that the state system has the information and is powerful but that it is sometimes a lack of expertise or knowing where to look that creates the difficulty in finding information. The public still needs to ask for the information and one issue is the interactivity of a system.

#### **Approval of 2007 LSD Feed Bill Reversions to IT Technology Reserve Fund**

01:10:22 Ms. Berger asked the Council to decide if it wished to transfer the remaining balance of the 2007 Feed Bill into the IT Reserve Account. She referred to a memo (EXHIBIT #6) that listed the exact amounts available to be transferred. **REP. BERGREN moved to approve the transfer of \$82,900 from LSD to the Legislative Branch IT Reserve Account.** The Council discussed how the Legislative Branch IT Technology Reserve Account is used. **The motion passed on unanimous voice vote.** Ms. Berger asked SEN. STORY and REP. BERGREN to consider how much of Senate and House available balances can be transferred and to provide her with a letter of their intent.

#### **Review of "Reasonableness" Standard**

01:24:04 Ms. Fox explained a proposed clarification of guidelines for evaluating legislator salary and expense claims for reasonableness (EXHIBIT #7). After discussion, **REP. BERGREN moved to approve the proposed changes.**

01:27:35 Ms. Berger explained several additional reasons why the proposed changes would improve the current procedure. The Council discussed the pros and cons of the proposed changes with Ms. Fox and Ms. Berger.

01:36:49 **REP. BERGREN moved to adopt new guidelines but to designate them as temporary until permanent guidelines could be adopted.** SEN. ESSMANN discussed travel time allowances and driving hours allowed per day, saying that safety issues ought to be a consideration.

- 01:39:40 REP. MCGILLVRAY asked if the proposed changes were being put forth because the current guidelines have been abused. Mr. Petesch said that historically, there have been some abuses and inconsistencies and that the Legislative Council worked on this issue for a long time before approving guidelines. He said it is a difficult process at times, but a necessary one.
- 01:41:36 SEN. STORY asked staff to research travel issues and the possible use of an hourly rate for travel, rather than a full day's pay for just a few hours on the road. Ms. Berger said she would do that but pointed out that a statutory change would be necessary before she could implement such a policy. SEN. BRUEGGEMAN agreed that safety concerns should be considered. The Council discussed several additional considerations, such as the cost of printing new expense forms and having more flexibility in travel guidelines.
- REP. BERGREN withdrew his motion.** REP. CAMPBELL stated that if the goal is to have educated, competent people willing to serve in the legislature, they must be paid for the value of their time. **REP. CAMPBELL moved to reinstate the motion to approve the proposed changes in guidelines for evaluating legislator salary and expense claims for reasonableness.** REP. HIMMELBERGER agreed. The issue of whether a legislator is entitled to claim a day's pay for their return trip home after attending a committee meeting was discussed. Ms. Berger said that a legislator is entitled to claim a day's pay on return trips and some travel days to meetings.
- 01:53:31 **REP. CAMPBELL's motion passed on 9-3 voice vote, with SEN. WANZENRIED, SEN. STORY , SEN. WILLIAMS voting no.**

**Updates: TVMT Status & 2009 Feed Bill**

- 01:54:08 Ms. Fox discussed the status of TVMT and noted that a Request for Proposal (RFP) has been released to see if a better deal can be found on transmission costs. She also briefly referred to the 2009 Feed Bill (EXHIBIT #8) and said that she would update the Council on the status of these issues at the next meeting.

**BREAK 1:56 to 2:15 p.m.**

**POTENTIAL COMMITTEE LEGISLATION**

**Interim Committee Appointments**

- 02:17:07 Ms. Fox reviewed a document listing current statutes regarding legislative appointments to interim committees (EXHIBIT #9). REP. MCGILLVRAY said that the proposed statutory changes to 5-5-211(2), MCA, have been discussed with the Speaker of the House, Rep. Scott Sales. **REP. MCGILLVRAY moved to amend the process through which interim committee members are appointed in the event of a split house.** He said that the changes would apply only to the House of Representatives and would ensure that members are placed where they are best suited. SEN. STORY said for efficiency's sake, one person making the appointments is a good idea and that the goal should be to place people on committees where they can do the most good. REP. HIMMELBERGER said he didn't think it would necessarily eliminate problems.

02:31:11 **REP. MCGILLVRAY's motion failed on a 8-4 roll call vote, with SEN. LASLOVICH, SEN. WANZENRIED, SEN. WILLIAMS, REP. BERGREN, REP. CAMPBELL, REP. HIMMELBERGER, REP. O'HARA, AND REP. PHILLIPS voting no (ATTACHMENT #4).**

#### **Other Appointment-related Issues**

02:32:25 Ms. Fox discussed appointments to the Board of Research and Commercialization Technology and to the Future Fisheries Review Panel (EXHIBIT #8), saying that changes in statute may need to be made there also. SEN. STORY asked Ms. Fox to draft a change in wording that would fix the problem.

#### **INTERIM COMMITTEE ISSUES**

##### **Minutes Proposal**

02:36:08 Ms. Fox discussed a proposal from Dave Bohyer, Director, Office of Research and Policy Analysis, LSD, regarding proposed changes in the format of written interim committee minutes (EXHIBIT #10).

02:41:08 SEN. WILLIAMS expressed concerns about maintaining transparency. Ms. Fox explained that transparency and access to information would not be compromised and would likely increase under the proposed changes. SEN. ESSMANN supported the proposal and said that using the time stamp in the minutes is an efficient and easy way to access the audio recording if additional details or information is needed. SEN. STORY said that he did not oppose the changes but wondered if approval of written minutes would be necessary if the audio minutes are considered the official minutes.

02:46:49 **REP. MCGILLVRAY moved to adopt the proposal. The motion passed on a unanimous voice vote.**

02:47:46 SEN. STORY asked how audio minutes are archived. Ms. Fox said that she is working with the Montana Historical Society through a Library of Congress grant to create a digital archive system at the Historical Society.

#### **Interim Study Assignments - Request for Information, Other**

02:50:01 Ms. Fox reviewed for the Council that at its May meeting, SEN. STORY had requested staff to provide a final list of studies assigned to interim committees, including an estimate of the FTE necessary to conduct each study. She said that the Council had received a memorandum and table containing the information requested, as prepared by Dave Bohyer (EXHIBIT #11).

#### **DISCUSSION OF LEGISLATIVE COUNCIL GENERAL WORK PLAN**

##### **Fall Strategic Planning Session - August 20-21, 2009**

02:52:25 Ms. Fox said that Marc Scow is tentatively booked to act as the session facilitator and that she would provide copies of the last strategic planning session notes in order to give the current Council an idea of the issues the previous Council dealt with.

#### **Legislative Information Officer Update**

- 02:54:24 **Gayle Shirley, Legislative Information Officer, LSD**, discussed 2009 session highlights and a proposed work plan (EXHIBIT #12). She pointed out that thank you letters were received from two of the 2009 session legislative interns (EXHIBIT #13 and EXHIBIT #14) and that one of the letters also offered suggestions on how to improve the intern program.
- 03:00:32 REP. PHILLIPS asked about the proposed interim work plan topic to research use of social networking sites by legislators (Page 2 - EXHIBIT #12). Ms. Shirley said that the topic was placed on the list at the request of a legislator and that the legislator is interested in seeing how or if other states use these types of tools. REP. PHILLIPS asked to add the potential use of video conferencing for meetings, particularly for the Legislative Council, in order to decrease travel time and expenses. Ms. Shirley said she would add that topic to the work plan.
- 03:02:53 SEN. ESSMANN said that he found the interns' comments and suggestions very interesting and asked Ms. Shirley to comment. Ms. Shirley said that she agrees that the program, if it is to be continued, is in need of changes and that there is a great deal of potential for improvement. She discussed several possibilities for improving the program.
- 03:05:09 SEN. LASLOVICH asked how interim committee and session committee news releases are handled. Ms. Shirley said that her work with session standing committees is limited and that her efforts are more directed toward assisting interim committees and providing nonpartisan services to all legislators. SEN. LASLOVICH discussed several concerns relating to school visits to the Capitol during legislative session. Ms. Shirley said that the Montana Historical Society and the Department of Administration (DOA) are responsible for scheduling school visits and providing tours but that she would like to streamline the process by creating a brochure guide for schools on how to best plan student visits. She said that it is not unusual for hundreds of students to be in the Capitol on the same day, which can create problems, and that policies and guidelines are needed.
- 03:11:59 REP. MCGILLVRAY asked who is responsible for scheduling events in the Rotunda. Ms. Shirley said that the General Services Division of the DOA is responsible.
- 03:13:20 SEN. STORY asked Ms. Shirley to investigate how improvements could be made to the handling of the legislative social calendar.
- 03:15:42 REP. HIMMELBERGER discussed several concerns regarding NCSL's *Back to School Program* for legislators. He said he has had difficulty accessing Billings Schools and that he would like to be better able to utilize the program. He asked Ms. Shirley to investigate possible barriers and to provide suggestions on how the program could be more easily used by legislators. Ms. Shirley said that she has done outreach to schools and teachers through presentations and attending teacher conventions, and is working on other avenues to increase awareness of the program. She said that she would like to discuss the matter further. REP. HIMMELBERGER also discussed concerns relating to media print coverage of

legislative events and meetings. He asked what steps are being taken to counter declining paper subscriptions. Ms. Shirley said that the LSD's webpage always lists the upcoming meetings and events and that she also utilizes *NewsLinks* to provide information to written and electronic media sources.

03:21:54 REP. O'HARA and REP. HIMMELBERGER both commended Ms. Shirley for her assistance to them in working with area schools in their districts.

#### **Work Plan, Meeting Dates, Items for Potential Study**

- **American Reinvestment and Recovery Act (ARRA) Stimulus Funding - Governor's Office**

03:22:35 **Jayson O' Neill Deputy Communications Director, Governor's Office**, updated the Council on the status of the Montana Reinvestment Act (HB 645), which included funding from the American Reinvestment and Recovery Act (ARRA) Stimulus Funding. Mr. O'Neill provided copies of a March 25, 2009, memorandum from Bruce Nelson, Chief of Staff, Governor's Office, outlining the guidelines for the use of the stimulus funds (EXHIBIT #15) and gave a virtual tour of the Montana Reinvestment Act website ([www.recovery.mt.gov](http://www.recovery.mt.gov)).

03:43:24 SEN. ESSMANN said that transparency in government business is of concern and asked if the website is searchable, in order for citizens to more easily locate information. Mr. O'Neill said the website is searchable and provided a demonstration.

03:46:15 REP. PHILLIPS asked if the number of visits to the website will be tracked. Mr. O'Neill said that he thought the number of visits could be tracked but that he did not know if a counter had been activated. He said he would find out and update the Council. REP. PHILLIPS said he would also like to know if the length of the visit could be tracked.

03:47:42 **SEN. WANZENRIED** asked about "shovel ready" projects and if the number of jobs actually created to date is available. Mr. O'Neill said that about 11,000 jobs in Montana have been created or saved. SEN. WANZENRIED asked for a specific breakdown on where the jobs have been created and what the jobs are. Mr. O'Neill said at this point, the numbers are based on estimates and that actual numbers will be available eventually.

03:50:37 REP. MCGILLVRAY asked how short-term versus permanent full-time jobs are tracked. **Shawn Graham, Associate Budget Analyst, Governor's Office**, explained the calculation process used for determining FTEs.

03:52:36 In response to questions from SEN. STORY regarding resources being used to implement the Montana Reinvestment Act and how much information is available on bids placed on projects created by the stimulus funding, Mr. O'Neill said that all work is being done with existing staff and that the procurement process is open and all information is available to the public.

03:56:59 SEN. WILLIAMS said that the Legislative Finance Committee created an American Recovery and Reinvestment Act Subcommittee that will be closely



tracking the website and that the Subcommittee may request additional information. She asked Mr. O'Neill and Mr. Graham to work with House and Senate leadership and with Barb Smith, Fiscal Analyst, Legislative Fiscal Division (LFD).

03:58:36 SEN. STORY asked how funding is being spent on human services. Mr. O'Neill referenced a page on the website from HB 645 that lists how funding is being spent for human services programs. SEN. STORY said he would like to see very specific information on how the money was spent and how people benefitted.

04:03:02 SEN. WILLIAMS said the ARRA Subcommittee meeting is planning to meet on July 8 via conference call, and that the Council members could either join in via conference call or give her their questions or information requests.

### **Appointments of Advisory Groups**

04:04:12 Ms. Fox discussed the Suggested General Work Plan (EXHIBIT #16) and Ideas for Consideration by the Legislative Council for Study (EXHIBIT #17), dealing with succession planning and legislative space and IT issues.

04:10:36 After discussion, the Council agreed that, aside from a Management Subcommittee, there was no need to create other subcommittees or advisory groups at this time. The Council then discussed retirement and space issues and what first steps need to be taken to deal with these issues. Ms. Fox said she will continue to work with the DOA staff on both issues.

SEN. WILLIAM said that the Legislative Finance Committee also formed a subcommittee to study the succession issue. She suggested asking the LFC if several Council members could be added to the Subcommittee. SEN. STORY thought a better approach would be to have all of the legislative administrative committees work together on the succession planning issue.

04:18:09 SEN. BRUEGGEMAN stated that he would like the Legislature to statutorily regain control of Capitol space and that it appeared to him that the Secretary of State's Office was the most suitable space for expansion of legislative offices. He said it is important that the Governor's Office is involved in discussions.

04:20:08 REP. HIMMELBERGER asked for four volunteers to serve on the Management Subcommittee. REP. BERGREN, REP. O'HARA, SEN. LASLOVICH, and SEN. ESSMANN volunteered to serve. REP. HIMMELBERGER asked to form a subcommittee to begin a preliminary investigation on the Capitol space issue. SEN. WANZENRIED volunteered. SEN. BRUEGGEMAN and REP. PHILLIPS also volunteered.

04:26:54 SEN. WANZENRIED provided an update of the activities of the Legislative Finance Committee. He discussed the upcoming hiring of a new fiscal analyst to replace Clayton Schenk and said that discussions need to begin regarding the retirement of other senior staff. SEN. STORY said it would be a good time to revisit the issue of reorganization of the Legislative Branch and to consider the possibility of having one administrator to oversee all three divisions. SEN.

WILLIAMS again suggested having Council members on the LFC subcommittee, saying it would be an avenue through which the Council could provide input. REP. HIMMELBERGER agreed to contact Rep. Jones, LFC Chair, and make the request.

- 04:34:47 In response to a question from SEN. STORY about duties of interim committees, Mr. Petesch said that interim committee duties are statutorily prescribed, as are the duties of the division directors. He said is that this is a fortuitous time to reconsider reorganization because, in his opinion, the current organizational chart has been inefficient. He said statutory changes would be necessary and suggested that the possibility of reorganization or changes in job duties be referenced in hiring notices for the fiscal analyst.
- 04:43:44 SEN. ESSMANN and REP. BERGREN had questions about statutory issues that would have to be dealt with if reorganization was pursued and asked Mr. Petesch gather information on potential models that could be used in a reorganization.
- 04:44:44 SEN. BRUEGGEMAN agreed that one central figure would be most helpful but said he thought that the administrative committees - the Legislative Council, the Legislative Fiscal Committee, and the Legislative Audit Committee - of the legislative branch should work more closely together in scheduling their meetings. He said doing so would allow the committees to communicate more effectively with one another and to work more efficiently on succession planning. REP. HIMMELBERGER asked Ms. Fox to look at the LFC and LAC meeting schedules. SEN. BRUEGGEMAN said he would like it if the committee meetings overlapped sometimes because it would allow the different members to attend the other meetings.

**OTHER COUNCIL BUSINESS, PUBLIC COMMENT, ADJOURNMENT**

No public comment was given.

With no further business before the Council, the meeting was adjourned at 4:50 p.m. The next meeting is scheduled for August 20, 2009, in Helena.

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