



# Legislative Council

## 62nd Montana Legislature

### SENATE MEMBERS

CAROL WILLIAMS--Chair  
JEFF ESSMANN  
JIM PETERSON  
MITCH TROPILA  
BRUCE TUTVEDT  
DAVID WANZENRIED

### HOUSE MEMBERS

MIKE MILBURN--Vice Chair  
CHUCK HUNTER  
MARGARET MACDONALD  
TOM MCGILLVRAY  
JESSE O'HARA  
JON SESSO

### COMMITTEE STAFF

SUSAN FOX, Executive Director  
TODD EVERTS, Legal Division Director  
DAWN FIELD, Secretary

# MINUTES

August 24, 2012

Room 102, Capitol Building  
Helena, Montana

Please note: These minutes provide abbreviated information about committee discussion, public testimony, action taken, and other activities. To the left of each section in these minutes is a time designation indicating the approximate amount of time in hours, minutes, and seconds that has elapsed since the start of the meeting. This time designation may be used to locate the referenced discussion on the audio or video recording of this meeting.

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Hard copies of the 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

SEN. CAROL WILLIAMS, Chair  
REP. MIKE MILBURN, Vice Chair

SEN. JEFF ESSMANN  
SEN. JIM PETERSON  
SEN. MITCH TROPILA  
SEN. BRUCE TUTVEDT  
SEN. DAVID WANZENRIED

REP. MARGARET MACDONALD  
REP. JESSE O'HARA  
REP. JON SESSO

### COMMITTEE MEMBERS EXCUSED

REP. CHUCK HUNTER  
REP. TOM MCGILLVRAY

### STAFF PRESENT

Susan Fox, Executive Director  
Todd Everts, Legal Director  
Fong Hom, Committee Secretary

## **Agenda and Visitors' List**

Agenda (**Attachment 1**)

Visitors' list (**Attachment 2**)

### **COMMITTEE ACTION**

- The Council approved the minutes of the May 2-3, 2012 meetings.
- The Council acknowledged that representatives from Lewis and Clark County have consulted with the Legislative Council regarding the land transfer and have fulfilled the statutory obligations of 77-2-351, MCA.
- The Council approved reverting back to existing language regarding transmittal dates for the revenue estimate in the draft rules before they are posted.
- The Council accepted the Legislative Branch Computer Systems Plan.
- The Council approved several budget motions: designate the amount of \$500,000 in the IT and TVMT budgets as one-time only line items; submit Programs 20 and 21 budgets to the Governor's Budget Office; submit the budgets from the Fiscal Division and Audit Division contingent upon concurrence; and approved the request for the Legislative Branch Pay Plan.
- The Council approved bill requests for the Feed Bill, the Code Commissioner's bill, and a K-12 funding study.
- The Council approved a recommendation to accept the current standing committee structure.
- The Council voted to not implement the Legislative Internship Program during the 2013 session and approved a bill draft to repeal the statute implementing the Legislative Internship Program.

### **CALL TO ORDER**

00:00:01 SEN. WILLIAMS called the meeting to order at 9:05 a.m.

- **Approval of May 2-3, 2012 minutes**

00:00:20 SEN. WANZENRIED moved to approve the minutes of the May 2-3, 2012 meeting. The motion passed unanimously by voice vote.

- **Update on Legislative Services Division activities - Susan Fox**

00:00:51 Ms. Fox discussed the changes that have occurred in the Legislative Services Division staff.

- **Notice of Operations plan change - Susan Fox**

00:02:28 Ms. Fox discussed changes in the Operations Plan (**Exhibit 1**) because of the need to transfer money from the operating to personal services.

- **Litigation and administrative proceedings - Todd Everts**

00:03:36 Mr. Everts gave an update on the Board of Personnel Appeals' ruling in the MEA-MFT unfair labor practice charge. He said that although Dan Whyte is no longer part of the Legislative Services Division's legal staff, he will continue to represent the Branch in that proceeding.

Committee questions

00:04:13 SEN. ESSMANN asked if the Branch had a right to intervene in that case.

00:04:33 Mr. Everts said that because the Executive Branch took no action during the Board proceedings, the Legislative Services Division had to represent the Legislature's interest and was successful in getting a summary judgment dismissal of the unfair practices labor complaint. He said that he had been in contact with the Attorney General's Office and the Executive Branch and was told that they will not be taking further action in the judicial review proceedings, which necessitated LSD to file a motion to intervene.

- **CTA retro-commissioning update and schedule - Susan Fox**

00:06:25 Ms. Fox provided a summary of the services provided by CTA Architects Engineers to the retro-commissioning of the Capitol Building and the Capitol Boiler Plan mechanical systems (**Exhibit 2**).

Committee questions

00:08:23 SEN. ESSMANN said that it was his impression that in 2005, the Capitol Building had just undergone renovation. He asked if the valves that require replacement now are valves that were replaced at that time.

00:08:44 Ms. Fox said that those valves were put in during the 2000 renovation of the Capitol Building.

00:10:10 SEN. ESSMANN asked about cold beam technology and how that would work in the hearing rooms.

#### **ROLL CALL**

00:11:07 The Committee Secretary called roll. Rep. Hunter and Rep. McGillvray were excused (**Attachment 3**).

#### **AGENDA**

##### **REVIEW OF THE LEWIS AND CLARK COUNTY LAND TRANSFER (77-2-351, MCA) - Ethan Stapp, Department of Natural Resources and Conservation**

00:12:45 Mr. Stapp gave a presentation on the proposal to transfer a state-owned parcel of land to Lewis and Clark County (**Exhibit 3**) for public use.

Committee questions

00:16:39 SEN. WILLIAMS asked about the public comment period.

00:16:42 Mr. Stapp said that to date there has been no public comment.

00:17:04 SEN. TUTVEDT asked why this transfer of land couldn't be done in the same manner as other land transfers.

00:18:07 Mr. Stapp said that 77-2-351, MCA, applies only to non-trust land because they do not have the same mandate as trust lands in obtaining full market value. This particular statute was authorized by the Legislature with the land at the Lewis

and Clark County Fairgrounds in mind.

- 00:18:50 SEN. TUTVEDT asked how state lands become non-trust land.
- 00:18:53 Mr. Stapp said that it comes down to the document that transfers the ownership to the state and whether or not it specifies the use of the land to fulfill a public use or a benefit to a particular beneficiary.
- 00:20:29 **Andy Hunthausen, Lewis and Clark County Commissioner**, discussed the property to be transferred and the County's plans for the property.
- 00:27:18 SEN. PETERSON asked about the value of the property and the terms of the lease.
- 00:30:00 **Eric Bryson, Chief Administrative Officer, Lewis and Clark County**, said that the appraised value includes real property and personal property. The land itself is contaminated, so the current appraised value that the County is working with includes both raw land values and improvement values which is still not identified.
- 00:34:37 SEN. PETERSON said that based on Mr. Bryson's comments, the appraisal will have a specific request in it to identify not only the value but also the liability associated with that property because it is contaminated land.
- 00:35:02 Mr. Bryson said that he asked for an appraisal that specifically lists the value of the buildings; i.e., improvements and the value of the land, and takes into consideration the clean up plan that has been accepted and approved by the Department of Environmental Quality.
- 00:35:19 SEN. ESSMANN asked if the County is assuming responsibility for the clean up.
- 00:35:41 Mr. Bryson said the clean up plan that has been accepted by the Department of Environmental Quality states that if the property stays as is, no further remediation needs to be done. In accepting transfer and deed of the property, the County will accept the responsibility for clean up.
- 00:37:14 **Galen Hollenbaugh, HD #81, member of the Lewis and Clark County Fairground Board**, commented that this is an example of public/private partnership in terms of transferring the land and then having private entities assist in building needed facilities. This transfer will not be complete until there is public comment during the Land Board's comment period.
- Motion**
- 00:39:38 SEN. WANZENRIED made a motion to note that representatives from Lewis and Clark County have consulted with the Legislative Council and have fulfilled the statutory obligations of 77-2-351, MCA.
- 00:40:37 The motion passed unanimously by voice vote.

## STRATEGIC PLANNING INITIATIVES I: 2013 Session

- **Legislator Training**  
00:42:01 Ms. Fox said that staff is continuing to work on legislator training and will meet again at the end of September.
  
- **Leadership Training**  
00:42:16 Ms. Fox said that staff discussed having a Friday afternoon/Saturday morning opportunity for the leaders to get together. She discussed some complications due to conflicts with other events that have been scheduled at the same time. She said that leadership orientation will not happen during Orientation Week. Ms. Fox would like to set something up but if that doesn't happen, she suggested doing a conference call with the committee at a later date.
  
- **Rules Subcommittee Report - Sen. Peterson and Todd Everts**  
00:45:26 Mr. Everts gave an overview of the Rules Subcommittee's documents (**Exhibit 4**).  
00:45:33 SEN. PETERSON discussed the proposed changes that were recommended at the Subcommittee's August 23<sup>rd</sup> meeting:
  - ▶ Amendment 1, revenue estimating process changes
  - ▶ Amendment 6, change the rule that eliminates the necessity of a motion to indefinitely postpone
  - ▶ Amendment 7, eliminate the use of adverse committee report motions  
00:51:06 Mr. Everts discussed proposed changes to:
  - ▶ Amendment 2, every House member serve on a Class I committee
  - ▶ Amendment 3, update the reference to Mason's Manual
  - ▶ Amendment 4, authorize the House to dispose of a bill without a hearing to be consistent with the Senate rules
  - ▶ Amendment 5, clarify how the debate should occur on a motion to reconsider within the House and conform it to Senate rules; articulate that there are two opponents and two proponents that can speak on that motion
  
- Committee questions  
00:54:17 SEN. ESSMANN asked if the draft rules will be posted on the Legislative Council's webpage. The staff will post draft rules after the Council adopts them.
  
- 00:54:31 SEN. ESSMANN asked about the amendment to eliminate the adverse committee reports. He said that a blast motion is a procedural motion to whether or not debate a bill on the floor, whereas, an adverse committee report is a comment on the substance of the bill.
  
- 00:55:25 SEN. PETERSON said that the adverse committee report is a vote by the committee to the Committee of the Whole that a particular bill does not pass and forces the bill to the floor so that discussion can take place in hopes of making a statement with regard to the adverse nature of the particular statute being proposed. The committee did discuss that that is used in a negative context to emphasize something adverse related to the proposed legislation.

- 00:58:55 REP. MACDONALD said the adverse committee report comes up under the order of business number two, and the only response that can be made is by the sponsor of the bill that has the adverse committee report.
- 00:59:27 Mr. Everts said that the motion to adopt the adverse committee report is a nondebatable motion except for what Rep. MacDonald stated. Procedurally, it is the same as a blast motion but it does get it up on the floor and allows the sponsor to discuss why or why not the committee report should be adopted.
- 01:00:22 SEN. WANZENRIED asked about the timetable for the revenue estimating process and if there were any concerns on the part of the House members about transmitting it by the 45<sup>th</sup> day.
- 01:01:35 SEN. WANZENRIED asked Rep. Milburn to summarize the concerns about the transmittal date with respect to the timetable.
- 01:01:53 REP. MILBURN said he is not sure that there are concerns with the timetable part. Any time you make a change and do things differently, there are some concerns.
- 01:02:21 SEN. PETERSON said that he discussed this with several members of the House Appropriations Committee, and this rule change simply establishes another joint subcommittee. That joint committee would be meeting at the same time as the other joint subcommittees.
- 01:03:45 SEN. WANZENRIED said that the current rules that are being changed in this document made that transmittal date the 60<sup>th</sup> day. We are moving up the transmittal deadline for the House to transmit to the Senate the revenue estimate by two weeks and that is two weeks' worth of time that everybody is always saying that we need to look at changes in revenue activity during the time we are in session. That is his only concern.
- SEN. PETERSON said he doesn't think this rule change affects the transmittal date of the budget but it does affect the fact that this joint committee has to give their judgment on the revenue estimate back to the House Taxation on the 28<sup>th</sup> day, then everything is back to the same as it always has been.
- SEN. WANZENRIED said that if you look at page 33 of the rules, it has the dates in current rule that are going to be eliminated and replaced with the language that is on page 13. Under the current rules, the House has until the 60<sup>th</sup> day to send the revenue estimate to the Senate. The rules that we are looking at here changes that to the 45<sup>th</sup> day. So it is moving it up 15 legislative days to send the revenue estimate to the Senate, if we in fact adopt them. He is only asking the House to consider that that might be a problem later on.
- 01:05:51 SEN. WILLIAMS said that Sen. Wanzanried is correct, that our concern has always been that we need more information and the more time that goes by, the better chance we have for a good revenue estimate. She suggested that the Rules Committee take a look at that 60<sup>th</sup> day and reinstate that timetable.

- 01:07:24 REP. SESSO said that he was under the impression that they had consensus on creating a joint committee, to use that joint committee time to give the two bodies an opportunity to study, learn, and scrutinize the revenue estimate, and to make a recommendation as a joint committee to House Tax. Once the joint committee made its recommendation to House Tax, House Tax would then take up the matter of moving the revenue estimate as per the standard process. He was not aware of this change, or the necessity, or the purpose of any change beyond that. He said he isn't certain that we as the Legislative Council cared about the 60<sup>th</sup> day versus the 45<sup>th</sup> day. He said he isn't sure what the purpose of moving from 60<sup>th</sup> to 45<sup>th</sup> actually was in the discussions in the Rules Committee.
- 01:11:00 SEN. WILLIAMS asked Rep. Sesso if he would be interested in making a motion to put that language back in that left it at the 60<sup>th</sup> day, and then move forward with what goes online.
- Motion**
- 01:11:15 REP. SESSO moved to put back language regarding the transmittal dates before it is posted online and get back to where we were.
- 01:11:40 SEN. WANZANRIED clarified the motion to revert back to existing language for the transmittal date from the House to the Senate, and then reverse back to the House.
- 01:11:45 The motion passed unanimously by voice vote.
- **Technical note on legal review - Todd Everts, Legal Director**
- 01:13:36 Mr. Everts discussed the recommendation of the subcommittee to change the wording in the "Bill Draft Checklist Report" (**Exhibit 5**).
- Committee discussion
- 01:20:26 SEN. WANZANRIED said that further elaboration about any issues that have not been resolved by the time the bill is actually introduced would be noted at the bottom of the face page.
- 01:20:55 Mr. Everts said that if there are issues noted after the process is done, they will be below this preface statement which basically articulates what was done, where the comments came from, and what they are. Mr. Everts said that staff reviews the junque files and notes that if there is an issue, the committee is notified.
- **Report on security plan - Susan Fox**
- 01:38:50 Ms. Fox updated the committee on the security plan, and said that a security officer, who is on contract with the Helena Police Department, was hired to provide law enforcement services in the Capitol Building during session. The new security officer will start on October 1.
- 01:40:08 SEN. WILLIAMS requested that the new security officer be introduced at the November meeting.

**BREAK** - reconvened at 11:05 a.m.

## **LEGISLATIVE SERVICES DIVISION PRELIMINARY BUDGET**

- 02:02:14 Ms. Fox discussed a document (**Exhibit 6**) that shows the five areas of the Legislative Branch and the four programs that are funded by House Bill 2. She gave background information on the Legislative Branch Computer System Plan as presented by the Computer Systems Planning Council.
- **Legislative Branch Computer System Plan**
- 02:06:36 Hank Trenk, IT Director, and Darrin McLean, Enterprise Architect, gave a presentation on the Legislative Branch Computer System Plan (**Exhibit 7**).
- Committee questions
- 02:12:23 SEN. WILLIAMS discussed the need for a motion to accept the Plan and said that the motion would not commit the Council to any budgetary options.
- 02:12:33 SEN. WANZANRIED asked about the budget item on page 32 of the Plan, if those costs are costs incurred for the 2013 session and which costs are expenditures that will be incurred during session.
- 02:13:22 Mr. Trenk said that all of the IT expenditures for the 2015 session are in this budget.
- 02:14:04 SEN. WANZANRIED asked if there are other costs of a similar nature that are incurred because of the Legislature being in session that Mr. Trenk didn't have as an ongoing costs.
- 02:14:44 Mr. Trenk said that those budget items are there as a contingency in case they run into issues that take more IT resources than are available before a session.
- 02:18:25 SEN. TROPILA asked about the constant threat of hacking that Mr. Clark of ITSD talked about.
- 02:20:28 Ms. Fox discussed other projects that are important to the plan.
- 02:23:25 SEN. WANZANRIED asked about the pilot project regarding legislator email accounts.
- 02:23:56 Mr. Trenk explained the original intent for legislator email.
- 02:25:33 SEN. ESSMANN asked about archiving the legislators' emails.
- 02:26:06 Mr. Everts said that legislator emails that have to do with legislative business, such as comments on bills, are defined as public records. Once they are defined as public records, there is a requirement that they be archived for at least 10 years.

02:28:02 SEN. ESSMANN asked if this committee should also be reviewing policies of the three branches for consistency purposes.

**Motion**

02:34:41 REP. MACDONALD moved to accept the Computer Systems Plan. The motion passed unanimously by voice vote.

- **Legislative Services Division Branch Budget Proposal**  
02:35:38 Ms. Fox discussed the budget that was put together by the three divisions of the Legislative Branch: the memorandum dated August 21, 2012, that shows the four programs with its 2012-13 approved budget and its 2014-15 proposed budget (**Exhibit 8**); and the document "Biennium Budget Comparison" that compares present law budget for the four programs (Programs 20, 21, 27, and 28) (**Exhibit 9**).

**LUNCH** - reconvened at 1:06 p.m.

- **2015 Operating Plan**  
04:00:24 Ms. Fox discussed the document "Program 20 - Legislative Services Division" (**Exhibit 10**).

- **Draft IT Budget**  
04:00:30 Ms. Fox discussed the Draft IT Budget (**Exhibit 11**).

- **Legislative Branch Central IT Budget History**  
04:00:45 Ms. Fox discussed the bar chart that gave a historical overview of the budget. (**Exhibit 12**).

Committee questions  
04:08:25 SEN. TUTVEDT asked Mr. Trenk about the increase in the budget for replacing computers.

04:09:59 Mr. Trenk said that looking back historically, they were about \$1.8 million outside the ITSD charges. This time they are at \$1.9 million.

04:12:09 SEN. PETERSON said that he will have a problem approving the 23% increase without some additional vetting. He discussed reducing the IT's first submission by \$500,000, take it down to \$2.6 million, and agree that, as a committee, reviewing it at the November meeting.

04:14:57 Ms. Fox said that if you gave the IT a target, they could work together to see what \$500,000 would represent and have that back to the committee for a decision in November.

**Motion**

04:16:24 SEN. PETERSON moved to take \$500,000 out of the Program 20 budget, and give the IT division the opportunity to review the program's budget, and submit a budget number to the Council in November.

- 04:17:34 Ms. Fox said that she would like to finish her presentation on the operating costs increase in Program 20 before the vote on Sen. Peterson's motion.
- Motion withdrawn**
- 04:17:45 SEN. PETERSON withdrew his motion.
- **State Broadcasting Services Proposed Budget**
- 04:18:02 Ms. Fox discussed the State Broadcasting Services' proposed budget that is included in Program 20 as operating expenses which contributes to the increase **(Exhibit 13)**.
- Committee questions
- 04:26:58 SEN. ESSMANN asked about the expected life of digital cameras. He thinks that it is a long-term expenditure and should be in the long-term budget instead of an operating budget.
- Motion**
- 04:27:53 SEN. PETERSON moved to reduce the IT budget request by \$500,000 under Program 20, for initial submission to the executive budget, and instructed staff to review Program 20 and come back in November for a second look by the committee.
- Committee questions
- 04:29:30 SEN. WANZANRIED asked if the total request appropriation is being reduced by \$500,000 and where that figure is being reduced from.
- 04:29:54 REP. SESSO discussed Exhibit 8, the document that proposes \$28.5 million, and the actuals for the current biennium that are projected to be \$27.2 million. He asked Mr. Trenk about the contingencies that were plugged in for a session build up, engineering support, and the LAWS support, and did Mr. Trenk have that amount for coverage in the 2011 session.
- 04:33:52 Ms. Fox said to look only at Program 20 and the \$15 million that is proposed. The \$500,000 would come from the \$15 million. LSD could go through and figure out which part to put in the preliminary budget that is due by September 1.
- 04:44:35 REP. SESSO asked that the IT separate out those costs that are one-time expenditures from the base and then have a yes/no vote on those one-time expenditures independent of the overall budget.
- 04:46:22 Ms. Fox said that a preliminary budget from the Legislative Services Division has to be submitted by September 1, with an October 10 deadline for finalizing the budget. That budget is what the Legislative Fiscal Division uses for their budget analysis.
- 04:51:10 **Kris Wilkinson, LFD**, said that putting a one-time only designation on the equipment as a new proposal will still show that within Program 20 it is part of the total budget amount, but it will not reflect into the base for the next period of time.

**Amended Motion**

04:51:50 SEN. PETERSON amended his motion to line item the \$500,000 as one-time money that could come from the camera change over and the replacement side, and take that difference out of the operation budget but be shown as two line items.

05:00:43 The motion passed with SEN. TROPILA, REP. MACDONALD, AND SEN. WANZANRIED voting no.

05:01:09 SEN. ESSMANN said that he would like Ms. Fox to have a discussion regarding possible commercial sponsorship of the channel that broadcasts the session to defray costs.

05:02:40 SEN. WILLIAMS commented that she could appoint members from the House and Senate to have a discussion on that issue with Stephen Maly and others, and come back at the next meeting with a report. Interested persons could meet with her after the meeting.

- **Program 21 - Interim Committees and Activities**

05:04:41 Ms. Fox discussed 2015 Biennium Budget of Program 21 - Interim Committees and Activities (**Exhibit 14**); Program 21 Totals (**Exhibit 15**); and Activity Budgets of Program 21 (**Exhibit 16**).

Committee questions

05:09:29 SEN. PETERSON asked about the Emerging Issues budget and how much of that budget has been historical use.

05:09:50 Ms. Fox said that in the last two bienniums, they have used between \$3,000 and \$5,000 for interim committees for additional meetings that were not budgeted for. Ms. Fox said that at the end of the biennium, whatever is left reverts back, but a third of it is carry forward. If you don't use it in the next biennium, that money is put back into the IT Reserve Account upon Legislative Council's and leadership's approval and used for unanticipated declining systems and legacy systems replacement.

**Motion to approve submission of Programs 20 and 21 budgets**

05:15:20 SEN. TROPILA moved that the Programs 20 and 21 budgets be submitted to the Governor's Budget Office. The motion passed with SEN. ESSMANN voting no.

**Motion to approve submission of the Fiscal and Audit Division budgets**

05:15:47 SEN. ESSMANN moved to submit the Legislative Fiscal Division's and the Legislative Audit Division's budgets contingent on concurrence of the Finance and Audit Committees for their respective budgets. The motion passed unanimously by voice vote.

- **Branch Pay Plan and New Proposal (Exhibit 8)**

05:18:04 Ms. Fox discussed the Branch pay plan proposal (**Exhibit 17**).

**Motion**

05:23:13 SEN. TROPILA moved to approve using the new proposal discretionary funds to assist moving the Legislative Branch staff to an average of 87% of market. The motion passed unanimously by voice vote.

#### **APPROVE BILL DRAFT REQUEST FOR RETIREMENT RESERVE FUND TRANSFER**

05:26:10 Ms. Fox discussed the reason for the bill draft request for retirement reserve fund transfer.

##### Committee discussion

05:27:15 SEN. WILLIAMS asked if it would be prudent to put something back in if the reserve has been exhausted.

05:28:36 SEN. PETERSON asked if it was possible to take some of that reversion out of the current fiscal year budget and transfer some of that into the retirement fund.

05:28:59 **Tori Hunthausen, Legislative Audit Division**, said that it would require statutory change.

05:29:03 Ms. Fox said that the carry forward that they will have next biennium would be available to the directors without any statutory change for this purpose.

05:29:17 SEN. PETERSON asked if the branch would have room to take care of this liability in the next biennium.

05:29:32 Ms. Fox said that branchwide they would, but divisionwide, they wouldn't.

05:31:12 SEN. PETERSON said that he would like to address it at that time and if Ms. Fox could provide additional material for us to more specifically identify that liability and where it might occur.

#### **REQUEST FOR FEED BILL**

05:31:40 Ms. Fox said that the request for the Feed Bill is to have it ready for discussion at the November meeting.

##### **Motion**

05:32:12 SEN. PETERSON moved to request a Feed Bill. The motion passed unanimously by voice vote.

##### Committee questions

05:32:31 SEN. PETERSON asked if the extra money for interim committees was interspersed among the budget numbers.

05:33:23 Ms. Fox said that the money for interim committees is built off of a spreadsheet and is not there permanently.

05:33:47 SEN. PETERSON said that it would be better to have it as some kind of a line item to where if a request was necessary, leave it in the budget.

05:34:17 Ms. Fox said that it could be separated out as a present law adjustment for extra meetings. It's not a new proposal because it is existing statutory duties.

05:34:43 SEN. PETERSON said that if there are no objections, he would like it reflected that way because it allows them, from an accounting perspective, to track the money.

**Break - reconvene at 2:53 p.m.**

### **INFORMATION TECHNOLOGY RESERVE ACCOUNT**

05:47:57 Ms. Fox requested that the discussion of the IT Reserve Account be as an agenda item for the November meeting. She said that because the Computer System Planning Council is experiencing sticker shock, she had asked Mr. Trenk to find what might be appropriate to charge to the IT reserve account.

### **INFORMATION TECHNOLOGY ALLOWANCE REALLOCATION & COMMUNICATIONS**

05:48:13 Ms. Fox discussed the IT allowance reallocation and legislator communications. She said that she has been able to find a savings of between \$30 and \$40 per legislators by removing the landline phones. She said that they can revisit that issue in November.

Ms. Fox discussed the eDocs program; getting information electronically versus paper which includes phone messages, web messages, initial bill drafts, and committee notices. She said they will offer a gmail account through Google as a pilot program.

05:50:16 SEN. ESSMANN asked about working with another service provider that can maintain the service without invading constituents' privacy.

05:51:03 Darrin McLean said that the other server that they are looking at is Office 365, which is a Microsoft product.

05:52:08 Ms. Fox discussed the Legislator Information Technology Allowance (**Exhibit 18**).

05:54:37 SEN. PETERSON asked how many legislators are using this allowance.

05:54:49 Ms. Fox said that there is a minimum of 93 legislators and a maximum of 131 that will be able to use this allowance. They are requesting \$120,000 in the Feed Bill. Ms. Fox said that once they know how many legislators are eligible for the IT allowance, they could take money that wasn't used in the Feed Bill to fund that. Ms. Fox discussed putting phones in different areas rather than have a phone on every legislator's desk. She said that she needs to know which staff needs landline phones. The allowance that they are still recommending for laptops or tablets is \$1,000.

### **LEGISLATIVE COUNCIL PROPOSED LEGISLATION**

- 05:58:55 • **LCcc13 - Code Commissioner Bill - Todd Everts, Code Commissioner**  
Mr. Everts referred the committee to the proposed bill draft, LCcc13 (**Exhibit 19**), the bill draft summary (**Exhibit 20**) and the late change to section 23-2-634, MCA (**Exhibit 21**) but did not discuss them. Mr. Everts said that the code commissioner bill is nonsubstantive. He said that if the Council does request the bill draft, that draft will be sent out to all agencies for review.
- 06:01:40 **Motion**  
SEN. TROPILA moved to accept the Code Commissioner's bill request. The motion passed unanimously by voice vote.
- 06:02:06 SEN. WANZANRIED volunteered to sponsor the bill.
- 06:02:38 • **K-12 Funding Study (20-9-309, MCA) options**  
Ms. Fox discussed section 20-9-309, MCA. She wanted to bring it to the Council's attention because the ELG committee is inclined to not pursue the study at this time. The ELG committee believes that there is enough ambivalence in the statute that if it is authorized by next session, they will be okay. This will also come before the Finance Committee and if there was a study bill for this, there would be an appropriation for it.
- 06:05:08 SEN. WILLIAMS asked if it would be just a stop gap for the Council to recommend a bill draft and if the ELG committee ends up moving on it, then the bill draft is started. It seems to her that that is a safety measure to keep on the table.
- 06:05:33 **Motion**  
SEN. WANZANRIED moved to have a bill draft be prepared in accordance with 20-9-309, MCA, for a K-12 funding study. The motion passed unanimously by voice vote.
- 06:06:34 • **LCLC02 - Revising laws related to legislative publications and printing**  
Ms. Fox gave a presentation on LCLC02 (**Exhibit 22**).
- 06:07:44 • **LCLC05 - Revising laws related to legislator payroll and benefits**  
Ms. Fox gave a presentation on LCLC05 (**Exhibit 23**).
- 06:09:30 • **LCLC04 - Revising laws regarding legislative broadcasting and television Montana**  
Ms. Fox gave a presentation on LCLC04 (**Exhibit 24**).
- 06:10:11 • **LCLC03 - Revising laws regarding the Legislative Branch Computer System Planning Council**  
Ms. Fox gave a presentation on LCLC03 (**Exhibit 25**).
- 06:10:44 • **Other topics**  
SEN. ESSMANN discussed the issue of an intervention in a legal challenge by the Legislative Branch. He felt that there is a need for a committee bill to allow

the Legislature automatic standing to defend actions or inactions of the legislature and that it would be confined to where a district court could deny us recourse to the courts to defend our legislative prerogative.

- 06:11:57 Mr. Everts said that there is a cautionary note that he would make and that is balancing our constitutional legislative immunity provisions that protects the Legislature's, and as individual legislators, ability to intervene in legal proceedings. If the Legislature were to be sued on every bill, for example, they could use that as a defense. He said they would have to be careful in drafting the type of legislation so that the Legislature doesn't waive that as a defense in asking the court to grant standing in cases.
- 06:14:08 SEN. ESSMANN asked Mr. Everts that if a bill were to be drafted to give the Legislature automatic standing to intervene for purposes of defense, would that be different than automatic standing per se which might be construed to waive immunity.
- 06:15:01 Mr. Everts said it is and, in the consideration of drafting this legislation, he would need the latitude to ensure that it can protect the immunity defenses.
- 06:15:24 SEN. WILLIAMS asked Mr. Everts to research that and bring his findings back to them at the November meeting.
- **Session staff matrix**
- 06:16:04 Ms. Fox said that tradition has been to progress session employees the same way permanent employees are progressed. Because permanent employees have not received a pay increase, she will fill in the matrix from last time for approval at the November meeting.
- **Standing committee issue**
- 06:16:58 SEN. WILLIAMS asked if the standing committee issue needs to be discussed now or at the November meeting.
- 06:17:11 Ms. Fox said that there are some Senate standing committees that are Class II that often have more bills than some of the other traditional Class I committees. Her recommendation is that there be no changes except noting that the Senate State Administration Committee is still a Class II committee.
- Motion**
- 06:18:09 SEN. PETERSON moved to accept the standing committees as presented. The motion passed unanimously by voice vote.
- **Legislative security**
- 06:19:02 Ms. Fox discussed the changes made to the job descriptions of the Legislative Security positions (**Exhibit 26**).
- 06:20:29 SEN. WILLIAMS suggested that the committee members review the changes in the job descriptions, and to send any concerns that they might have to Ms. Fox.

- 06:22:06     • **Social media pilot and Granicus demonstration**  
Ms. Fox discussed the August 2, 2012, memorandum regarding social media pilot (**Exhibit 27**).
- 06:25:31     **K'Lynn Sloan Harris, AV Coordinator**, gave a demonstration on Granicus.
- 06:36:30     • **Shape Up Montana**  
SEN. WANZANRIED gave a presentation on a proposed project "Shape Up Montana" to help the legislators maintain good health during the 2013 session.
- 06:45:27     • **Legislative Internship Program**  
Ms. Fox said that in the past, the internship program received a stipend, but with current budget difficulties, that stipend was discontinued. She said that a lot of work goes into recruiting students to participate, and without a strong commitment from leadership, it is difficult to ask the universities, colleges, and tribal colleges to go through the recruitment process. She said that if the program cannot be done well, it should be repealed or revised.
- 06:49:28     Mr. Everts said that either the statute is implemented or it needs to be modified or repealed.
- 06:50:04     **Motion**  
There was a motion to not implement the Legislative Internship Program during the 2013 session. The motion passed with Sen. Wanzanried voting no.
- 06:50:26     **Motion**  
SEN. ESSMANN moved that staff draft a bill to repeal the statute regarding the Legislative Internship Program. The motion passed with SEN. WANZANRIED voting no.
- 06:50:46     Ms. Fox said that the Legislative Council should continue to explore the internship program.

## **STATEGIC PLANNING INITIATIVE II: Next Biennium**

- 06:52:01     • **Interim committees**  
Ms. Fox discussed topics regarding interim committees: size, budget, appointment process, proposal to train interim committee chairs, changes to rules and guidelines, revisit proxy votes, and agency bill draft requests process.
- 06:54:58     Committee questions  
SEN. ESSMANN asked why staff is required to draft agency bill drafts.
- 06:55:14     Ms. Fox said that the agencies do draft their own bills, but those bill drafts have to also be put into the legislative bill draft system.
- 06:56:46     SEN. WANZANRIED asked about the interim committee meetings being posted on the internet and in the Interim Newsletter.

06:57:58 Ms. Fox discussed consolidating calendars and posting them on the webpage.

## OTHER COUNCIL BUSINESS

- **Medicaid uncompensated care actuary study - Sen. Wanzenried**

06:58:44 SEN. WANZANRIED discussed the expansion of Medicaid and allowing the Fiscal Division to expend funds for services from nongovernment entities to analyze the Medicaid numbers. He is proposing that if the Fiscal Division cannot complete their analysis because of lack of funds and expertise, that the Council recognizes that completion of that actuary study and authorizes an amount to be expended.

### Committee questions

07:03:50 SEN. WILLIAMS suggested leaving this topic until the Legislative Finance Committee meets to decide what to do with Medicaid, have a conference call to discuss the issue and vote on using money from the Emerging Issues Fund.

07:05:02 SEN. PETERSON said that he attended that meeting and heard the consultants' report. Two things came out of the meeting: one was that no decisions will be made until after the election; and secondly, a state specific actuarial study is needed. The Fiscal Division needs to provide the Council with more information on what the study would do and whether or not the Legislature will get something in the form of actuarial data, so that when the time does come following the election, they can make good decisions.

07:10:48 SEN. ESSMANN discussed the process that is in place for committees who request additional funding. He said that if the request comes forward, a teleconference meeting is the most practical way to find a solution to the issue.

07:11:36 SEN. WILLIAMS said that the Council will wait to see what the Finance Committee comes up with.

- **Next meeting dates**

07:11:56 The committee discussed possible dates for the November meeting. Ms. Fox asked if the Council wanted a half-day meeting on November 13. Ms. Fox discussed the calendar for the caucus and orientation (**Exhibit 28**).

07:15:18 Ms. Fox suggested having the management meeting during the lunch hour, and then the Legislative Council meeting at 1:30.

07:16:53 SEN. WANZANRIED suggested that Ms. Fox and Ms. Carlson discuss possible agenda topics and times, and then make a decision on a meeting date.

07:17:05 SEN. WILLIAMS said to put the November 13<sup>th</sup> date for the next Legislative Council meeting.

07:18:13 Ms. Fox said that she had presented proposed legislation earlier today, and that those bills had not been acted upon. She said that if there is no further interest on those bills, she will not put them on the the next meeting agenda.

07:18:20 SEN. PETERSON discussed the meeting date for the Revenue and Transportation Committee to avoid any conflicts with the next Legislative Council meeting.

07:20:13 Ms. Fox asked about dates for the Leadership Orientation. A dinner on December 3<sup>rd</sup> for leadership was discussed.

- **TVMT Subcommittee**

07:20:56 SEN. WILLIAMS announced that Sen. Wanzanried, Sen. Essmann, Rep. Sesso, and Rep. O'Hara will be on the TVMT subcommittee.

**PUBLIC COMMENT - none**

**ADJOURNMENT**

07:21:58 With no further business before the committee, SEN. WILLIAMS adjourned the meeting at 4:28 p.m.

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