



# 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

November 13, 2012

Room 317, State Capitol  
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.

Access to an electronic copy of these minutes and the audio or video recording is provided from the Legislative Branch home page at <http://leg.mt.gov>. On the left-side menu of the home page, select *Committees*, then *Interim*. Once on the page for *Interim Committees*, scroll down to the appropriate committee. The written minutes summary, along with the audio and video recordings, are listed by meeting date on the interim committee's web page. You must have Real Player to listen to the audio recording or to view the video.

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. CHUCK HUNTER  
REP. MARGARET MACDONALD  
REP. TOM MCGILLVRAY  
REP. JESSE O'HARA  
REP. JON SESSO

## **STAFF PRESENT**

Susan Fox, Executive Director, Legislative Services Division  
Todd Everts, Director, Legal Services  
Dawn Field, Secretary  
Kelly DaSilva, Human Resources Manager  
Jen Simmons, Financial Services Manager

## **AGENDA & VISITORS' LIST**

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

## **COMMITTEE ACTION**

The Legislative Council:

- approved the August 20, 2012, meeting minutes as written;
- adopted the proposed price for the 2013 session proceedings;
- adopted the proposed 2013 session employee pay matrix;
- approved the revenue estimate recommendation;
- approved forwarding the remaining session rule change recommendations to the Rules Committee;
- appointed SEN. ESSMANN as sponsor of the bill to repeal the legislative intern program;
- appointed SEN. TROPILA as sponsor of the Code Commissioner bill; and
- appointed SEN. WANZENRIED as sponsor of the K-12 Funding Study.

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

00:00:06 SEN. WILLIAMS called the meeting to order at 1:05 p.m. The Secretary noted the roll, all members were present (Attachment 3).

## **COUNCIL BUSINESS**

00:00:58 **SEN. PETERSON moved to approve the August 24, 2012, meeting minutes. The motion passed on a unanimous voice vote.**

## **New Staff Introductions**

00:01:22 **Susan Fox, Executive Director, Legislative Services Division (LSD),** introduced Pad McCracken as LSD's newest research analyst.

00:02:21 **Todd Everts, Director, Legal Services, LSD,** introduced new LSD staff attorneys Ginger Aldrich and Laura Sankey.

00:02:51 Ms. Fox introduced Courtney Cannon as LSD's new receptionist.

00:03:06 **Hank Trenk, Director, Office of Legislative Information Technology (OLIT),** introduced new OLIT employees Skye Foster and Ryan Bell.

## **Legislative Security**

00:04:21 **Captain Steve Hagen, Helena Police Department (HPD),** introduced Officer Josh Ray and Sergeant Jerry McGee as the HPD officers who will be stationed in the Capitol. He provided a brief biography of each officer.

## **Litigation Update**

- 00:07:01 Mr. Everts updated the Legislative Council on the Board of Personnel appeals status.
- 00:07:39 Mr. Everts updated the Council on the status of the cabin site leasing issue.
- 00:07:56 Mr. Everts discussed recent federal court decisions relating to Montana campaign finance/reform and recent rulings that certain statutes that have been ruled unconstitutional. He asked the Council how it wished to respond.
- 00:09:04 SEN. ESSMANN asked if the federal court case on campaign finance was on its way to the Ninth Circuit Court. Mr. Everts said yes, and that certain pieces of statute have gone up to the Ninth Circuit Court.
- 00:10:14 In response to a question from SEN. TUTVEDT about contribution limits, Mr. Everts distributed a summary of recent challenges to Montana Election and Campaign Finance Laws (EXHIBIT 1) and said that staff is involved in drafting legislation to address the issue.
- 00:11:34 SEN. TUTVEDT said that a bipartisan solution should be found and asked that the Council be kept up to date. Mr. Everts said he would update the Council as often as it would like.
- 00:12:18 SEN. TUTVEDT asked what committee would oversee any proposed legislation. Mr. Everts said that the State Administration Committee would be the usual place for election-related bills but that a select committee could be formed, should the Council wish to take that approach.

**PRESENTATION ON NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAW**

- 00:13:16 **Edwin Eck, Commissioner, National Conference of Commissioners on Uniform State Laws (NCCUSL)** distributed and discussed a report to the Legislature of Montana (EXHIBIT 2).
- 00:20:05 **Karen Powell, Commissioner, NCCUSL, and legislative liaison,** reported on activities and accomplishments passed in last session. She referred to several recommendations included in the report (page 4 of EXHIBIT 2) and noted that other information is available on the NCCUSL website.

**MEDICAID REQUEST UPDATE**

- 00:30:27 Ms. Fox said that the Council members' meeting packet has two letters regarding the Medicaid request update: a letter from herself to State Auditor Monica Lindeen (EXHIBIT 3) and Ms. Lindeen's response (EXHIBIT 4).

**BUDGET ITEMS**

- 00:32:49 Ms. Fox reviewed the legislative branch budget (EXHIBIT 5).
- 00:36:34 Ms. Fox discussed a TVMT long-term planning report (EXHIBIT 6).

- 00:40:32 Ms. Fox discussed a table outlining Legislative Branch staff retirement liability projections (EXHIBIT 7).
- 00:44:09 SEN. PETERSON asked if the Branch has the funds necessary to complete the year, given the significant impact of the retirement of long-time employee Terry Johnson. Ms. Fox said yes and explained how Mr. Johnson's retirement was planned for.
- 00:45:57 Ms. Fox discussed the Information Technology (IT) Reserve Account, saying it is projected to have a balance of \$1 million and that the Council would need to discuss it in more detail at a later meeting.
- 00:47:50 Ms. Fox discussed the IT Communications Allowance Report. She reminded the Council that legislators have a \$1,000 computer allowance. She said that questions remain about session phone needs and that she would like to work with leadership to resolve those issues before session.
- 00:49:55 SEN. WILLIAMS said the new leadership ought to make the decisions on this issue.
- 00:51:35 Ms. Fox discussed the leadership and interstate organization budget (EXHIBIT 8) and noted that leadership budget reports were placed in leadership's meeting materials.
- 00:54:19 SEN. WILLIAMS said that even though it is bad timing, she would strongly encourage members to attend the national meeting scheduled for December because the information would be very valuable to members.

#### **LEGISLATIVE SPACE**

- 00:55:21 Ms. Fox said that the final report of the Capitol Retrocommissioning has been received and that Council members received a CD copy of it in their meeting folders (EXHIBIT 9). She said that about \$1 million of improvements need to be done and that she anticipates that the money will be available through General Services and other sources. She said that she does not yet know what the Long Range Planning Budget request will be but that it is money well spent. She thanked the Council for its support.
- 00:58:45 SEN. ESSMANN asked if it worked well to have LSD staff working upstairs in legislative space during the interim. Mr. Trenk reported that the IT staff moved to the third floor in July and staff was very appreciative of the opportunity.
- 01:01:59 SEN. ESSMANN said his opinion is that interim committees are not productive and he questioned which interim committees requested budget increases. Ms. Fox said that the Education Local Government Interim Committee, the State-Tribal Relations Committee, and the Environmental Quality Council all requested increases but noted that the amount requested would simply restore their budgets to their original amounts.

- 01:05:33 SEN. WILLIAMS asked about the cost of proceedings (EXHIBIT 10). **Jen Simmons, Financial Services Manager, LSD**, explained the proposal for the new price for paper copies of 2013 session proceedings.
- 01:07:27 SEN. PETERSON asked Ms. Simmons to confirm that there are only 16 hard copy subscribers. Ms. Simmons said yes. SEN. PETERSON asked if prices will be recouped with the proposed prices. Ms. Simmons said yes.
- 01:08:25 **SEN. PETERSON moved to adopt the proposed prices for 2013 session proceedings. The motion passed on a unanimous voice vote.**
- 01:08:48 Ms. Fox reviewed the session employee pay matrix (EXHIBIT 11).
- 01:11:20 REP. MCGILLVRAY asked for information about session staff overtime, saying it would be very helpful for new leadership to have the information. Ms. Fox said she would get the information. SEN. WILLIAMS said that she would like the new senate leadership to get the information also.
- 01:13:11 REP. MILBURN said that the House tracked its overtime closely and was very strict in allowing its use. SEN. WILLIAMS said that flexibility is also necessary, depending on how the session goes. SEN. PETERSON said that overtime was monitored regularly in the Senate.
- 01:15:21 **REP. HUNTER moved adopt the proposed prices for 2013 session employee pay matrix. The motion passed on a unanimous voice vote.**

### **2013 SESSION PREPARATIONS**

- 01:16:16 Ms. Fox discussed session preparations and the legislative orientation and training schedule (EXHIBIT 12).

### **Leadership Orientation and Training**

- 01:20:13 Ms. Fox said that the leadership orientation scheduled for Friday, November 16, likely would not happen. She said that leadership notebooks have been prepared and asked leadership to stop by her office to pick them up. SEN. WILLIAMS asked if it would be possible for leadership to hold a quick meeting for just an hour on Thursday morning (November 15). Ms. Fox said she would arrange a room. REP. HUNTER asked if staff would be available for questions and meeting with new leadership on Friday afternoon (November 16). Ms. Fox said yes. SEN. WILLIAMS said that new and old leadership would meet at 8:00 a.m. on Thursday morning (November 15) in Room 335.
- 01:25:12 Ms. Fox said that freshman legislators would gather for their last directions on Friday morning, November 16; and that there was an opportunity for an additional caucus on Friday afternoon, should one be needed.
- 01:27:01 Ms. Fox reviewed the committee chair calender (EXHIBIT 13) and said it would be presented to new leadership.

01:28:25 SEN. TUTVEDT said that the committee chair calendar would be of great help. SEN. WILLIAMS said that she hoped that future Councils and new leadership would continue to advocate for this type of work in advance of sessions.

### Legislative Rules

01:29:50 Mr. Everts reviewed the proposed amendments for legislative rules for the 2013 Legislative Session (EXHIBIT 14). He referred to the following documents in his presentation of the proposed amendments:

- LC5656 (EXHIBIT 15) Joint Legislative Rules;
- LC5657 (EXHIBIT 16) House of Representatives Rules; and
- LC2528 (EXHIBIT 17) Senate Rules.

01:40:24 SEN. WILLIAMS said that she was very pleased with the work of the Rules Subcommittee and staff. She thanked them for their efforts and sensible changes.

01:41:11 SEN. TUTVEDT said he still has concerns about the corporate license tax issue. Mr. Everts said he would look at that issue further.

01:42:46 REP. MCGILLVRAY asked to segregate the revenue estimating recommendation. **He moved to approve the revenue estimate recommendation.** REP. MCGILLVRAY said he planned to vote against the recommendation and explained why he thinks the change is not needed.

01:44:27 SEN. PETERSON said that the revenue estimate issue has been a contentious one and that the recommendation is a compromise. He explained why he thinks the change is needed.

01:45:18 **The motion to pass the revenue estimating recommendation passed on a 9-3 voice vote. REP. MCGILLVRAY and REP. MILBURN (McGillvray held proxy) voted no. REP. SESSO (Williams) and SEN. WANZENRIED (Williams) voted yes by proxy.**

01:46:14 **SEN. PETERSON moved to recommend the other proposed rule changes to the Rules Committee meeting scheduled for December.**

01:46:35 SEN. ESSMANN said that he would support the motion but wanted to note that the adverse committee report rule is evidence of the corrosive effect of term limits, SEN. WILLIAMS said that she wholeheartedly agreed.

01:47:36 REP. MCGILLVRAY said, regarding the recommendation limiting motion debate, he could not see how it could be enforced properly. Mr. Everts said it would be difficult because a ruling would have to be a somewhat subjective determination of the chair.

01:50:25 **SEN. PETERSON's motion passed on a unanimous voice vote.**

01:51:02 Mr. Everts said that a sponsor is needed for the code commissioner bill (see *August 24, 2012, meeting materials*). SEN. TROPILA agreed to sponsor the bill.

- 01:51:57 SEN. ESSMANN agreed to sponsor the bill to repeal the legislative intern program (LC 324).
- 01:52:13 SEN. WILLIAMS appointed SEN. WANZENRIED to sponsor the K-12 Funding Study - LC 322 (EXHIBIT 18).
- 01:52:37 Ms. Fox briefly reviewed the 2013 Feed Bill (LC 321) and said that it is important to get it passed quickly in the 2013 session.

**OTHER BUSINESS, DIRECTIONS TO STAFF**

- 01:59:27 Ms. Fox said that a farewell reception will be held for outgoing legislators later in the afternoon.

**PUBLIC COMMENT**

There was no additional public comment.

**ADJOURNMENT**

- 02:00:15 The meeting went into executive session for the purpose of conducting Ms. Fox' performance appraisal. The meeting was adjourned immediately upon completion of her appraisal.

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