



Legislative Council

62nd Montana Legislature

SENATE MEMBERS

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JEFF ESSMANN
JIM PETERSON
MITCH TROPILA
BRUCE TUTVEDT
DAVID WANZENRIED

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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

May 3, 2012

Room 102, 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.

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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. 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, Council Secretary

AGENDA & VISITORS' LIST

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

COMMITTEE ACTION

The Legislative Council:

- approved a motion to amend joint rules regarding the revenue estimate process;
- approved a motion to amend language relating to proxy votes in "*Rules, Procedures, and Guidelines for Interim Committees*";
- approved proposed agency legislation from the Governor's Budget Office;
- approved a pilot project for temporary use of legislative space for IT staff; and
- approved a proposal for a legislative security officer pilot project for the 2013 session.

CALL TO ORDER AND ROLL CALL

00:00:01 SEN. WILLIAMS called the meeting to order. The Secretary noted the roll, all members were present (Attachment 3).

REVENUE ROUNDTABLE DISCUSSION

00:00:53 **Amy Carlson, Legislative Fiscal Analyst, Legislative Fiscal Division (LSD)**, gave a brief introduction of the topic and summarized the issues discussed and decisions made at the joint meeting of the Revenue and Transportation Interim Committee (RTIC), the Legislative Council, and the Legislative Finance Committee (LFC) held in December regarding how to improve the revenue estimating process. She said that a steering committee of six met after that meeting to discuss if it would be a good idea to present a short overview to the three full committees of what 2011 would have looked like if the revenues had been evaluated under a different approach. She said that Mr. Johnson's presentation will show what the 2011 numbers would have looked like if the revenue information had been evaluated using a year-to-date (YTD) approach.

00:02:30 **Terry Johnson, Principal Fiscal Analyst, LFD**, discussed a staff report (EXHIBIT 1) that focused on the accuracy component of the revenue estimate process and what staff is doing to address this issue. The report listed four draft recommendations, of which Mr. Johnson discussed the first three:

- Compare post-session revenue estimate with actual revenue to determine whether accuracy increase and determine if the legislative session should be.
- Determine if Department of Revenue (DOR) scan process improves the accuracy of the estimates.
- Review historical data to determine if year-to-date collection information is useful to the year end forecast. (Mr. Johnson referred to a table and several graphs attached to the report for this part of his discussion).
- *(Mr. Johnson discussed this point later in the meeting). Conduct a periodic review of critical components of the revenue estimating models, including data and processes. Identify "trigger" that may indicate when the model might be breaking down.*

Council Questions

- 00:19:31 REP. MILBURN said that the future can't be predicted, which complicates the revenue estimating process. He asked Mr. Johnson to discuss issues related to the inflationary effect on the two-year biennium cycle and if those are taken into consideration. Mr. Johnson said that an anticipated rate of inflation is built into the revenue side of the process but that the Legislature establishes the appropriation for the spending side of the equation. He said the revenue estimate is based on the present law basis but beyond, LFD staff does not speculate on what legislative policy might be.
- 00:22:37 Mr. Johnson added that it sometime confuses legislators that when talking about revenue estimating because the process covers a three-year period of time. He explained why that is necessary.
- 00:23:53 In response to a statement by SEN. TUTVEDT, Mr. Johnson discussed how timing of revenue collections can greatly affect the analysis of revenue collections.
- 00:26:13 REP. MACDONALD asked about the last graph for January on page 2 and noted that the estimate for that month looks to be remarkably on point. Mr. Johnson said that is correct and discussed why. REP. MACDONALD questioned Mr. Johnson further about the actual collections-by-month graph.
- 00:29:15 SEN. WANZENRIED said that the information discussed by Mr. Johnson is exactly why a robust debate is needed. He said it is a complicated and difficult issue to understand and that the more members involved, the better and more accurate the outcome will be. He said he is glad that the pilot project will proceed and that he is hoping that the effort will continue during the session.
- 00:30:35 REP. SESSO questioned Mr. Johnson extensively about how the graphs were constructed using the eleven years of data and corresponding minimums, maximums, and means; and how the information was applied to Fiscal Year (FY) 2011 collections.
- REP. SESSO said that his recollection is that Mr. Johnson prepared a revenue update in early March that was not captured in HJ2. He asked Mr. Johnson if he was to compare data collections in May 2011 to the update he presented in March 2011, would there have been as much of a disparity. Mr. Johnson discussed the LFD recommendations made in mid-February, mid-March, and mid-April.
- 00:36:49 REP. SESSO and Mr. Johnson discussed the fiscal information illustrated in the graphs further. REP. SESSO said that based on the information presented and discussed by Mr. Johnson, he thought that the Legislature could extrapolate the information to a point where the revenue estimate could be more accurately refined. He said it comes down to a question of if the Legislature is willing to act on that information in early April before finalizing the budget. Mr. Johnson pointed that there still is the potential for a significant revenue swing in any given month.

- 00:40:51 REP. SESSO said that the eleven-year history shows the ebb and flow of revenue collections. He said that if there was to be some type of bar set, based on January information, that would be good indicator. He said that the information indicates to him that the Legislature should act on the final revenue estimate in early to mid-April, rather than November. Mr. Johnson added that using a standard deviation would be another tool for gathering information.
- 00:43:44 REP. HUNTER asked how easy it is to put together the tables and graphs and if using a standard deviation would yield the same type of information. Mr. Johnson said that a standard deviation would aid in developing a more in-depth analysis.
- 00:45:14 SEN. ESSMANN agreed with REP. SESSO's statement that the main question is if there will be the political will to make a change in revenue estimating process. He said that there is no perfect revenue estimate process and that his opinion is that Montana's process is as good as any. He said he isn't convinced the system is broken.
- 00:46:58 SEN. PETERSON said it would be interesting to calculate the eleven-year average for every month and then calculate the standard deviations also, and make a comparison. He said that might confirm which months are more predictable than others, which could be used to fine tune the estimating process. He said the political will to make a change is another question and a different issue. Mr. Johnson said that could be done. He said the one thing that is still absent in the discussion is that, when talking about year-to-date information, the discussion involves only the current year. He said that the next step must still be taken to make assumptions about why the revenues are what they are. He said that looking at the underlying economic data is very important in the process in making an accurate revenue estimate.
- 00:49:53 SEN. WILLIAMS commented that the RTIC, the Legislative Council, and the LFC has spent a great deal of time looking at ways to make the revenue estimating process less political. She said that she hopes that the remaining time in the interim will be spent trying to come up with a solution using the information presented by Mr. Johnson.

Proposed Rule Changes for the revenue estimate process

- 00:52:20 SEN. PETERSON referred to a list of proposed joint rule changes considered at the RTIC meeting (EXHIBIT 2). He noted that the Legislature does not have a good track history regarding following its rules for revenue estimating and because there are no real teeth in the pilot project, there is no guarantee that it will be followed either. He said the only way to ensure that rules will be followed would be to make them statutory requirements. He said that personally, he is willing to follow the rules and has always worked to do so. He said that is the question is that the RTIC got stalemated on.
- 00:58:12 SEN. WILLIAMS commented that it is a sad statement that a legislative body that makes rules for the citizens won't follow their own. She said that she understands the House concerns about giving up power but that the fact is that the House has both the revenue estimate and the budget, and that there is no reason the

Senate can't do the revenue estimate and have a set date to transmit each to the other. She said that people have put a lot of work into this because they feel the rules should and do count.

- 01:00:06 REP. MILBURN said that as Speaker, he must be mindful that he represents all House members of both parties and also about giving up what power the House has. He recalled a year the Senate had possession of the budget, changed House numbers, and then adjourned sine die. He agreed that something must be done but said that three issues are at play and all will factor into the decision: the need for an accurate revenue estimate, dealing with power of each house, and the politics of the revenue estimate process. He said that if a solution could be found where power could be evenly shared with no fear of abuse, he would consider it, but that House members are telling him that the process is not there yet.
- 01:02:40 REP. SESSO and SEN. PETERSON discussed the tone and outcome of the RTIC meeting. REP. SESSO said that he would support formation of joint subcommittee because it would be a reasonable action to take. SEN. PETERSON said that the RTIC did find agreement on some of the recommendations but could not agree on appointment of a joint subcommittee. He reviewed the recommendations discussed at the RTIC meeting and the concerns about each, as debated by the RTIC members. SEN. PETERSON said that if the Legislative Council could agree on a pilot project and recommend it in the rules, then new leadership and Legislature could make that decision on whether to go forward or go back to square one and it wouldn't bind anyone.
- 01:07:34 REP. SESSO discussed a conceptual motion.
- 01:10:35 SEN. TUTVEDT reiterated that it is the Rules Committee that will make the final decision. He said that continuity in the process is needed and is why he thought the whole House should be involved. He said that he isn't convinced a change is needed and discussed how it could be handled under the current process. He said that he would support having joint meetings.
- 01:12:23 **REP. SESSO moved, based on the information presented to the Council, that the Legislative Council recommend to the next Legislature and the next legislative Rules Committee that it implement the proposed changes to the joint rules (as provided for in EXHIBIT 2), using the House as the lead committee that the joint committee's recommendation would go to.** REP. SESSO spoke to his motion.
- 01:15:01 REP. MCGILLVRAY said that he didn't see the point of having a separate committee and suggested that the House and Senate Tax Committees have joint meetings, rather than forming a separate committee. REP. SESSO said that the process and structure provided by a joint subcommittee would give standing to the estimate.
- 01:18:33 SEN. PETERSON said that REP. SESSO makes a good point. He said that he would like to see the number of members increased in order to expand the

educational side of the process. REP. SESSO said that he would not resist the suggestion as an amendment to the extent that it would be no more than half of the members of the standing committee. The Council discussed the current membership of the standing tax committees.

- 01:21:30 REP. SESSO asked if decision point 3 - equal or proportional membership on the joint subcommittee - was an issue at the RTIC meeting. Ms. Fox reported that it was and resulted in a split vote. The Council members discussed how the joint subcommittee membership should be structured. Ms. Fox read aloud from the rules for joint subcommittees.
- 01:28:33 SEN. TUTVEDT suggested having an equal number of members from both the Senate Tax and House Tax Standing Committees and said that having a smaller number of members would make the process more timely and efficient.
- 01:29:31 **REP. SESSO restated his motion. He moved, with regard to the proposed joint rule changes, subsection (2), that there shall be a joint subcommittee on revenue estimation, that the Senate Committee on Committees and the Speaker shall each appoint seven members from the Senate and House Tax Standing Committees and that the prevailing party appoint one additional member; subsection (3) would remain as written; that subsection (4) would provide that the joint subcommittee make a recommendation to the House Standing Taxation Committee by the 28th legislative day; and subsection (5) would provide that transmittal to the Senate would occur no later than the 45th legislative day and that amendments to the revenue estimating resolution be transmitted back to the House by the 80th day.**
- 01:31:32 **The motion passed on a 9-3 voice vote, SEN. TUTVEDT, SEN. WANZENRIED, and SEN. ESSMANN voted no.**

Report from the Rules Subcommittee

- 01:31:54 SEN. PETERSON said that the revenue estimate recommendation will go before the Rules Subcommittee at its next meeting. Ms. Fox said the recommendation would also go before the Legislative Finance Committee in June.

Public Comment

- 01:33:17 **Tara Veazey, Montana Budget and Policy Center**, thanked the Council and staff for taking the topic on and for the recommendations made. Ms. Veazey discussed three important principals for revenue estimate process: accountability, transparency, and accuracy. She also offered comment on issues related to revenue estimating and suggested measures to improve the process. She offered assistance from the MBPC.
- 01:40:07 In response to a comment made by Ms. Veazey, SEN. WILLIAMS asked Mr. Johnson to discuss using an outside review of the revenue estimate. Mr. Johnson said that using an outside consultant was item four in his report but that he didn't discuss it. He said the possibility of having an independent review of the revenue estimate process and the methodologies utilized. He discussed bringing

in a consultant with active with the process, such as a retired employee, who could now come in and offer an independent analysis of the techniques used by LFD staff. He said another possibility discussed was to request a legislative audit of the revenue estimate process. He said that Ms. Carlson and he met with Tori Hunthausen, Legislative Auditor, to discuss a LAD staff audit but that she was concerned about independence issues, workload, and standards on which to base an audit. He said the most realistic option was to contact economic forecast companies, which was done. He said that Moody's Analytics and Global Insights were both contacted and that both companies have the resources and expertise to do this type of analysis and could even do the revenue estimate, if need be. He said that the LFD has received proposals, including cost estimates, from each company.

STRATEGIC PLANNING INITIATIVES II: NEXT BIENNIUM

Standing Committee topics

- 01:45:18 Ms. Fox discussed the issue of posting standing committee votes more quickly through an automated vote system and said that there are certain issues, such as proxy votes, that could make that difficult. She said she would like direction from the Council.
- 01:47:36 SEN. TUTVEDT asked what the current time line for posting is and what is missing from the reports and vote records. Ms. Fox said reports are usually posted within a week but that proxy votes can delay that. She said that a week is usually the maximum but that she knows that members like to have the committee vote in order to prepare for the floor vote. Ms. Fox said the issue involves mostly logistical tasks and that tightening up the process, where possible, would help.
- 01:50:23 SEN. ESSMANN said that House and Senate traditions differ and that the Senate philosophy is that when the bill gets to the Senate it is a new debate and that the Senate doesn't necessarily want to know what happened in the House.
- 01:51:30 REP. HUNTER said the experience in the 2011 session was that the process took longer and longer as the session went on. He asked what assurances there would be to ensure that the reports were posted on a timely basis. Ms. Fox said that she has no authority for enforcing this so she couldn't say. She explained how creation of a database would simplify the process and allow the secretaries to work more efficiently. She discussed other related issues that might have to be considered as part of the issue.
- 01:53:53 SEN. WILLIAMS asked if the new process would allow better public access to vote records. Ms. Fox said that Ms. Miller's concern could be satisfied about keeping reports flowing quickly and that the IT staff develops a database and the secretaries get enough training to properly use it in a timely manner. It was agreed that Ms. Fox could continue to work on this issue.
- 01:55:54 Ms. Fox said that other issues remain to be worked on, including proxy votes, committee classification; and that the Council will discuss this at the next meeting.

01:57:34 SEN. ESSMANN asked Ms. Fox to prepare a history of committee assignments going back ten to twelve years. He said that senators often end up with too many assignments and can't participate at the level needed. He said the Council may wish to make a recommendation on that to the Senate Committee on Committees.

Interim Committee topics

01:58:29 Ms. Fox said that there has been a great deal of discussion about the size, duties, and purpose of interim committees; and that her attempts to research how other states operate in the interim have been hampered because only five other states have biennial legislatures. She reviewed the interim committee structure and said that the thought was with term limits, that interim committees would provide better continuity between standing and interim committees and would help preserve institutional knowledge. She said that staff has not requested any changes but that four committees have asked to add additional meetings to the next biennium. She said that she knows that there is concern about the effectiveness of the interim committee process and that she would like input from the Council on the process and any changes that may be needed.

02:05:13 SEN. WILLIAMS asked if an interim committee has refused to complete a study assigned by the Legislative Council. Ms. Fox said that no committee has refused outright to do a study but that several have limited the amount of time devoted to it. SEN. WILLIAMS said her concern is that the Council goes through the trouble of voting and ranking each study and that if a study ranks high, it should be prioritized by the committee. She said that she would like to review this and follow up at the next meeting.

02:07:24 REP. MACDONALD said she has a concern regarding proxy vote rules and said that the rules, as currently written in the Legislative Council's *Rules, Procedures, and Guidelines for Interim Committees* (EXHIBIT 3), are far too prescriptive as opposed to how proxy votes are used in a legislative session committee. She discussed a very contentious issue in which the Law and Justice Interim Committee (LJIC) chair ruled that proxy votes would not be counted. She asked the Council to consider allowing session proxy rules to be used for interim committee meeting because a great deal of conflict and consternation occurred at the LJIC meeting which, she said, probably would not have happened under session proxy rules.

02:12:11 **Todd Everts, Legal Services Director and Code Commissioner, LSD,** explained how the proxy rules work currently and said that interim committees can officially adopt them or modify them for that committee's purposes, and that many do. If not adopted, he said, they are the default rules. He said that the LJIC noted the rules as operating rules but did not officially adopt them. He said that if the session rules were to be adopted, each committee would be required to establish its proxy procedures, vote on them, and have them officially in the minutes. He suggested that the Council look at the interim committee rules and consider how prescriptive it wants to be and the level of uniformity it wishes to have.

02:14:47 SEN. WILLIAMS said the discussion would continue after the Council photo and a lunch break. She recessed the meeting until 12:30 p.m.

LUNCH BREAK

03:23:02 SEN. WILLIAMS called the meeting back to order at 12:36 p.m..

03:23:19 The discussion regarding REP. MACDONALD's request to amend the rules for interim committee proxy votes resumed. SEN. TUTVEDT said that he agrees with REP. MACDONALD that a change is needed because it is "too easy to game the system" under current rules. He said that proxy votes matter and that they should be able to be voted.

03:24:25 SEN. WILLIAMS clarified that the discussion was for interim committees only and that the discussion was regarding page 3 of Rules, Policies, and Procedures for Interim Committees (EXHIBIT 3). REP. MACDONALD said that she wanted to eliminate subsection B in its entirety. Ms. Fox cautioned against doing that and suggested amending subsection B to eliminate the requirement that a written proxy be for a specific issue. SEN. ESSMANN discussed his concern about changing proxy requirements, saying that session and interim committees work differently and that changing the wording may give interim committee members an excuse to not show up and do their work.

03:26:29 REP. HUNTER discussed an example of a legislator who had to leave an interim meeting very suddenly due to a death in the family and said without the proxy system, an imbalance on the committee could have been created.

03:27:25 SEN. PETERSON said that in his experience, written proxies have been used, usually with no specific direction and often with no prior notice. He said that he doesn't recall any problems. Ms. Fox said the process described by SEN. PETERSON is how proxy votes are typically used but that the issue in the LJIC meeting was contentious and the chair instituted the rule and denied the use of proxies. She noted that there were other issues at play also, so the situation was more complicated than just this rule only. She said that a legal opinion has been requested by certain members.

03:30:41 **REP. MACDONALD moved to amend proxy vote language in the Rules, Procedures, and Guidelines for Interim Committees by removing the second sentence in part A. and to put a period after the word "member" in part B., and delete the remainder of that sentence and the last sentence entirely.**
REP. MACDONALD spoke to her motion.

03:32:39 REP. MCGILLVRAY spoke in support of keeping the language as is, saying that it is important to hold the legislative body to a high standard.

03:34:27 REP. MILBURN said that he does see a problem with the language discussed by REP. MACDONALD. He suggested trying to find a solution somewhere in the two perspectives as discussed by REP. MACDONALD and REP. MCGILLVRAY.
REP. MILBURN moved to amend the motion and recommended that the second sentence in part A. read "....where new debate occurs the day of the vote, unless there is conversation with the contact"; and to leave to leave

part B written as is. SEN. PETERSON said that is the key sentence that gives the chair authority to decide if the proxy is allowed.

03:37:28 REP. MACDONALD said that is exactly where the problem erupted in the committee when the chair when ruled very restrictively and narrowly and cited the rule language as giving him no alternative to rule otherwise. She said that it is not always possible to issue one's proxy for a specific issue.

03:39:25 **REP. MILBURN withdrew his motion to amend the motion. REP. MACDONALD restated her motion to strike the second sentence of part A., and to put a period after absent member in part B., and strike the remainder of that sentence and the last sentence entirely.** SEN. PETERSON said that he is reluctant to support the motion after only a 15-minute discussion, considering that the rule has been policy for eleven years. **The motion passed on 6-5 roll call vote, REP. MCGILLVRAY, REP. MILBURN, SEN. ESSMANN, SEN. PETERSON, and SEN. TROPILA voted no. REP. SESSO was not present and did not vote.** SEN. WILLIAMS said that the motion can be implemented exactly as stated or that Ms. Fox and Mr. Everts could work on a proposal to tighten up the language. SEN. WILLIAMS said that she feels strongly about this issue and that because this is a citizen legislature, there are times that a member can't attend meetings. She said that when they can't, it doesn't mean their voice or the voice of the people they represent should be shut off. She said that the current rule leaves too much discretion to the chair and the potential for abuse. SEN. PETERSON said he would be more comfortable to research this and give staff an opportunity to look at this.

03:45:05 SEN. WANZENRIED asked if these rules apply to the Legislative Council also. Mr. Everts said that they do not, that the Council has its own operating rules and that proxy votes are subject to the Senate rules.

OBPP BILL DRAFT REQUESTS

03:46:47 **Amy Sassano, Governor's Office of Budget and Program Planning (OBPP),** discussed fourteen OBPP bill draft requests (EXHIBIT 4).

03:54:40 SEN. ESSMANN asked if HB 15 - School Facility Grant Program has a review process similar to the Treasure State Endowment Program. Ms. Sassano said it is modeled after the Treasure State Endowment Program and does have a review process.

03:56:43 **SEN. WANZENRIED moved to accept OBPP's proposed legislation for pre-introduction. The motion passed on a unanimous voice vote.**

LEGISLATIVE SPACE

03:57:25 Ms. Fox discussed *Statutes related to Legislative Council and Allocation of Space for the Legislature in the Capitol Building*, an overview of the Legislative Council's responsibilities regarding legislative space (EXHIBIT 5). She pointed out the language in bold lettering and said it gives the Council the context in which the Council controls legislative space. She read aloud from statutes 2-17-101, 2-17-108, and 2-17-805, MCA.

04:00:10 Ms. Fox referred to the study on legislative space done in the last interim under her authority with existing budget funds. She said that CD copies of the report are available, should a member want one. She said it basically dealt with staff needs and only looked at legislative space and that the study concluded that legislative space is inadequate for current needs. She said that several recommendations were presented to the Long-Range Building Committee.

Ms. Fox also updated the Council on the \$240,000 Capitol retro-commissioning study and project. She said that the project is about half completed and that air quality and temperature concerns should be improved by fall.

Ms. Fox then discussed the issue of legislative space and the growing number of staff working in the basement. She said that even though conditions have been improved, having so many people working in the basement has caused morale problems. She proposed a short-term solution, which would be to relocate the staff from the basement to the third floor Senate offices as a pilot project. She explained that the move would be temporary and that the staff would move back into the basement when session activities begin. She said that she realizes this is a delicate issue but that it would be a good start to finding a long-term solution.

04:07:39 REP. MILBURN spoke in support of Ms. Fox' request.

04:08:35 REP. HUNTER also spoke in support of the request.

04:10:19 SEN. PETERSON said he was willing to go along with the request.

04:12:20 **Hank Trenk, Director, Legislative Information Technology Office, LSD,** agreed that staff is unhappy about being located in the basement and would be grateful if the Council could do something to help.

04:12:58 REP. SESSO and Ms. Fox discussed potential scenarios if the pilot project is deemed a success, including the lack of room to expand under current space allocations.

04:17:14 SEN. WANZENRIED commented that action would be taken very quickly if the Senate work space was moved to the basement. He said that the space study recommendation for an annex to the Capitol is needed and predicted that the pilot project might help move the process along.

04:18:21 SEN. WILLIAMS said that without objection, Ms. Fox should be allowed to move forward with the pilot project. It was agreed.

OTHER COUNCIL BUSINESS

Security Subcommittee Report

04:19:28 REP. HUNTER reported that the Security Subcommittee approved a recommendation for a legislative security officer pilot project for consideration by the full Council. REP. HUNTER reviewed public safety issues and concerns discussed by the Subcommittee and what the position might entail. He said the

pilot project would be for the 2013 Legislature and includes a formal evaluation component. He asked the Council to approve the pilot project.

- 04:23:48 SEN. WANZENRIED said that he was not a member of the Security Subcommittee but did attend the meeting. He said that he has concerns about the timing of the evaluation and if there will be time enough to draft a bill to make statutory changes, should there be problems with the pilot project. He said that his fear is that there will not be adequate time, thus delaying any changes until the 2015 or 2017 Legislatures. He said he would like to draft a bill to change the statute, regardless of the pilot project. He discussed current statutory language and concerns about concealed weapons being allowed in the Capitol via a legislative security officer. He said another concern is if one person will be able to adequately provide all of the security needs.
- 04:26:09 REP. MILBURN asked what will become of the current security positions. REP. HUNTER said that wasn't directly addressed but thought that those positions would still be hired by leadership. He said the proposal would expand the current contract between the Department of Administration and the Helena Police Department to augment, by one additional police officer, officers who would be on duty in the Capitol. Ms. Fox discussed how existing security positions would be modified and said she would present them for consideration at the next Council meeting. She said that she will continue to work on the legislative security officer job description for reasons already discussed.
- 04:28:43 SEN. PETERSON reviewed the original proposal that was defeated at an earlier meeting. He said that this proposal would be the same, except that the project would operate for approximately six months, from December 2012 until June, 2013, costing no more than for a cost of approximately \$42,000, and that the money is in the existing budget. He discussed why the pilot project is a good idea and concerns about the current statutory language.
- 04:33:29 REP. O'HARA emphasized that the officer would be a fully trained and experienced officer.
- 04:34:00 REP. MCGILLVRAY clarified that the officer would be a uniformed officer carrying a clearly visible weapon. He said that his opinion is that this is a pre-emptive measure that is reasonable and thoughtful and a way to provide effective protection for legislators, staff, and the public.
- 04:36:32 SEN. TUTVEDT asked how the officer would cover the territory and how the officer would be scheduled. Ms. Fox said some of those details will be worked out but that the officer would be dedicated to the Capitol Building. She said that the HPD has indicated it can provide coverage for the six-day legislative week and that all details will be worked out before a contract is signed.
- 04:38:12 SEN. ESSMANN said that he thought the Subcommittee's recommendation is a rational approach to the problem, considering the time remaining until the next session begins. He said that a long-term solution will require participation and financial support from the executive branch, if the pilot project is made permanent.

SEN. WILLIAMS said it is clear that the officer will work for the Legislature only during the pilot project.

04:40:04 REP. SESSO asked if the Speaker and the President have money in their budget for security staff. He recalled that a security person was budgeted for in leadership funds and asked if that funding could be used to fund the pilot project position. Ms. Fox explained how the position would be paid for.

04:43:13 **REP. HUNTER moved that the Legislative Council adopt and accept Option 2 as described in the paper, "Legislative Council's Security Subcommittee Options for Consideration", which in essence is a pilot program to amend the contract with the Helena Police Department to add one additional security officer who is a trained law enforcement officer. This would be a pilot program for up to nine months, beginning October 1, 2012; and that the program be evaluated by Ms. Fox, the Legislative Council, and the Helena Police Department by mid-February of 2013.**

04:44:07 The motion passed on a 9-3 voice vote. REP. SESSO, SEN. TROPILA, and SEN. WANZENRIED voted no.

National Congress of State Legislatures

04:44:37 Ms. Fox said that Rep. Betsy Hands has requested that Rep. Kathleen Williams be allowed to attend NCSL's environmental committee meeting in her place. It was agreed.

Next Council Meeting

04:45:24 SEN. WILLIAMS asked if Council business can be concluded at the next meeting or if another may be necessary. Ms. Fox listed the work plan items that still to be acted on or finalized. She noted that the Rules Subcommittee may need to have an additional meeting and that the Council would also meet again in mid-November to adopt the Feed Bill.

04:47:56 After discussion of the proposed August 24 meeting date, it was agreed that the date would remain in place. SEN. WILLIAMS said that the Rules Subcommittee would meet the previous day. SEN. ESSMANN noted that the RTIC scheduled the revenue estimate for November 16, 2012, which conflicts with legislator training and leadership training.

PUBLIC COMMENT ON ANY OTHER ITEM

04:51:14 There was no public comment.

MEMBER ISSUES

04:51:27 SEN. WANZENRIED said his statement is not intended as anything but as a request regarding the naming and activities of a group calling itself the "Montana Senate Policy Committee". He said that he requested, in writing, that the President of the Senate and the Majority Leader ask the group to change its name because it gives the appearance of being connected to the Montana Senate. He said he has not received a response but that he would like the group to change its name.

- 04:53:38 SEN. WILLIAMS asked Mr. Everts if he is aware of this group. Mr. Everts said that he has not researched the group but that he has been asked to look at statutes that may be being violated by the group. SEN. WILLIAMS discussed her concern that people may assume that the group is connected to the Montana Legislature. She said that she doesn't have a problem with the organization but would like it if it would tweak its title a little bit. She said she would add her support to SEN. WANZENRIED's request.
- 04:55:38 SEN. PETERSON and SEN. ESSMANN agreed to pass the concerns on to the group. SEN. WILLIAMS thanked them for agreeing to do that.
- 04:57:15 SEN. ESSMANN discussed the issue of outside speakers coming to address the Legislature. He asked that they be limited to the first two weeks of the legislative session because the work load increases so much in the later part of the session. SEN. WILLIAMS said that would have to be a decision for new leadership.

MONTANA DATA CENTER TOUR

- 04:59:58 SEN. WILLIAMS and Ms. Fox discussed directions to the State Data Center. SEN. ESSMANN and REP. MACDONALD said they were not able to attend.
- 05:01:52 With no further business before the Legislative Council, SEN. WILLIAMS adjourned the meeting at 2:15 p.m. The next meeting is scheduled for August 24, 2012, in Helena.

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