



Legislative Council

63rd Montana Legislature

SENATE MEMBERS

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SUSAN FOX, Executive Director
TODD EVERTS, Legal Division Director
FONG HOM, Secretary

MINUTES LOG

April 4, 2014
Room 152, 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. JEFF ESSMANN, Chair
REP. CHUCK HUNTER, Vice Chair

SEN. ROBYN DRISCOLL
SEN. CLIFF LARSEN
SEN. JON SESSO

REP. BRYCE BENNETT
REP. MARK BLASDEL
REP. MARGARET (MARGIE) MACDONALD
REP. KRISTEN HANSEN
REP. GORDON VANCE

COMMITTEE MEMBERS EXCUSED

SEN. DEBBY BARRETT
SEN. CHAS VINCENT

STAFF PRESENT

SUSAN BYORTH 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 committee authorized the transfer of funds to the PNWR budget to allow additional legislators to attend the PNWR conference in Canada in preparation for the Summit of 2015.

CALL TO ORDER AND ROLL CALL

00:00:02 Sen. Essmann called the meeting to order at 9:03 a.m. The secretary called roll. Sen. Barrett and Rep. Vincent were excused. ([Attachment 3](#))

LEGISLATIVE SERVICES DIVISION UPDATES - Susan Fox, Executive Director, LSD

00:02:10 Ms. Fox gave an update on the HVAC project.

00:04:03 Ms. Fox informed the Council of changes in LSD staff: Dawn Field is the research assistant for LEPO; Joy Lewis is the new LSD secretary; Sally Bush and Bart Campbell will be retiring this year.

BUDGET UPDATE - Amy Carlson, Fiscal Analyst

00:05:50 Ms. Carlson gave an update on the FY 2014 General Fund Revenue ([Exhibit 1](#)) and an update on the budget status report. ([Exhibit 2](#))

Committee questions

00:09:09 Rep. Hansen asked about the PERS transfer.

00:09:18 Ms. Carlson discussed the document showing the Coal Tax and "Other Natural Resource Taxes". She said that revenues are strong so no need to make a revenue offset at the same time as making a change in the statutory appropriation.

IBARS UPDATE - Amy Carlson

00:10:21 Ms. Carlson gave an update on the iBARS system.

Committee questions

00:13:06 Sen. Essmann asked Sen. Sesso what his impression was on improving that process.

00:13:26 Sen. Sesso said that iBARS has been moving forward and they are getting regular briefings.

2013 SESSION AND BILL UPDATES

- **Initiative and referenda status - Todd Everts, Legal Director**

00:15:57 Mr. Everts gave an update on the initiative and referenda. ([Exhibit 3](#))

Committee questions

- 00:19:04 Sen. Essmann asked how many initiative petitions are in circulation based on the Secretary of State's list. Mr. Everts said that he will provide that information.
- 00:19:38 Rep. Hansen asked about the status of the trapping ballot initiatives.
- 00:19:58 Mr. Everts said that one of the trapping initiatives moved forward in terms of signature gathering. He said that the other initiative did not, but he will look into that.

• **SB 423 litigation update - Todd Everts**

- 00:20:40 Mr. Everts briefly discussed the lawsuit, *Montana Cannabis Industry Association v. State of Montana*. A summary of the lawsuit is provided in the document "SB 423: Montana Marijuana Act", prepared by Sue O'Connell, research analyst for the Children and Families Interim Committee. ([Exhibit 4](#))

Committee questions

- 00:21:59 Sen. Essmann asked about the April 15 hearing regarding summary judgment, and the dispensing of the May 20 trial date.
- 00:22:24 Mr. Everts explained the five elements of the Act that have been challenged. Both parties are seeking summary judgment with respect to those constitutional issues.

• **Legislative budget updates - Susan Fox**

- 00:23:29 Ms. Fox gave budget overviews of Program 20 ([Exhibit 5](#)), Program 21 ([Exhibit 6](#)), PNWR ([Exhibit 7](#)), and the 2013 Feed Bill ([Exhibit 8](#)).

Committee questions

- 00:28:43 Sen. Sesso asked about PNWR's budget balance for additional conference participation.
- 00:29:27 Sen. Sesso asked Sen. Larsen about the level of Montana's participation in the next 12 months with regard to the PNWR conference.
- 00:29:49 Sen. Larsen said that with PNWR's decision to hold the 2015 Conference in Montana, they will have about 600 to 700 people convening at Big Sky, Montana.
- 00:31:39 Sen. Sesso asked if the Legislative Council has the discretion to move dollars between the line items relative to interim committees. Ms. Fox said that as long as the budget is in the black, they have the funds.
- 00:33:47 Sen. Sesso asked if the Council can authorize any reallocations now or wait until the next meeting.
- 00:33:56 Sen. Essmann stated that he would like to discuss this later so that he could visit with Sen. Sesso about his caucus' interest in attending the conference.

• **Session Systems - Shawn Whyte**

- 00:35:46 Ms. Whyte gave an update on the Session Systems project. ([Exhibit 9](#))

Committee questions

- 00:43:25 Rep. Hansen asked if there was a warranty for the three phases of the project. Ms. Whyte said yes.
- 00:43:45 Rep. MacDonald asked when the Legislature will be using the new system and when will the transition begin?
- 00:44:08 Ms. Whyte explained the phasing-in part of the system and explained the first phase which is the MCAs and that that conversion process will be during the 2015 session.
- 00:46:23 Sen. Essmann asked if the vendors feel that they need to do the conversion in the traditional fashion and when will Ms. Whyte be implementing the MCA conversion.

00:46-46 Ms. Whyte discussed doing codification out of the 2015 session in the old system, and converting the MCA body as a whole to the new system.

00:47:52 Sen. Essmann asked that the Council be kept informed as the project rolls forward.

00:48:38 Sen. Sesso asked if there were any Montana vendors that would be able to supply that type of service and product?

00:49:01 Ms. Whyte talked about the two vendors that most states have used and neither one are Montana companies.

00:50:37 Sen. Essmann asked if Ms. Whyte is contemplating having stakeholders, legislators, and other members of the public interfacing with this project?

00:53:37 Ms. Fox explained that the funds for the SSR is in HB 10, and having followed the HB 10 process, and having fulfilled the requirements, the funds have been released.

E-MAIL FOR LEGISLATORS PROJECT

- **Subcommittee Report - Rep. Hunter**

00:57:12 Rep. Hunter reported on the activities of the Electronic Communications Subcommittee meeting.

Committee questions

01:00:07 Sen. Essmann asked if the subcommittee is planning on meeting between now and the June meeting?

01:00:23 Rep. Hunter said they did not discuss that but they anticipate having at least one more meeting.

- **Legal analysis on the Email Project - Todd Everts**

01:01:52 Mr. Everts discussed legislative staff and legislator training with regard to management of electronic communications.

- **Decision whether to proceed on gathering cost and other information**

01:03:51 Sen. Essmann said that the subcommittee is not at a decision point yet because they are still gathering information.

01:03:58 Rep. Hunter said that the subcommittee has asked for information on costs. He asked if the Legislative Council needed to ratify that decision.

BREAK - reconvened at 10:24 a.m.

LEGISLATIVE IMPROVEMENT

01:22:20 Ms. Fox discussed the suggested amendments to the goals for a legislative calendar. (**Exhibit 10**)

01:24:24 Ms. Fox discussed goals for orientation and training. (**Exhibit 11**)

- **What do other legislatures do: third installment?**

- ▶ **Compensation and calendaring survey results**

01:27:16 Ms. Fox gave highlights of the Legislator Survey Part 1: Legislator Compensation and Expenses. (**Exhibit 12**)

01:37:20 Ms. Fox gave highlights of the Legislator Survey Part 2: Legislative Scheduling and Calendar. (**Exhibit 12, page 2**)

Committee questions

01:55:39 Sen. Essmann asked if changing legislative compensation from a session date to a calendar basis violates the Montana constitution's prohibition on changing legislative pay that was done for the past session versus the following session.

01:56:23 Mr. Everts said that you can't make a change to compensation for yourselves, but you can make that change to apply to the next legislative membership.

01:57:49 Sen. Essmann commented on committees running late and that an analysis should be done on how long the hearings last. Ms. Fox said she can add that analysis to the June meeting.

01:59:46 Sen. Sesso said he is a proponent of having an interim stipend based on geographic size of the legislator's district; continue the effort to increase commitment of training and orientation; but he is not a proponent of changing the budget processes.

02:07:35 Rep. MacDonald commented on stretching out the work week, getting the work done, and having 5 legislative days left at the end of April, and then adjourn sine die. Is there a precedent in Montana for adjourning and leaving the door open to reconvene at leadership's call later on.

02:08:43 Sen. Essmann said that he had asked Marilyn Miller, Secretary of the Senate, to work on a schedule with a break at the end and the ability to come back and address vetoes, etc.

02:10:29 Rep. MacDonald said that if we have finished our work, adjourn sine die on the 85th legislative day, what does that mean for reconvening later during the interim in terms of the rules that would pertain to that session and who would call it.

02:11:05 Sen. Essmann said that we could adjourn on day 85 and reconvene at the call of the chair or at a certain date. We could reconvene at a date certain or upon the call of the chair and have the additional five days, then adjourn sine die at the end of that. If we adjourned sine die at day 85, with 5 days remaining, or if we adjourned on day 87 and had 3 days remaining, the Legislature can call itself back into special session by simple majority.

02:12:46 Ms. Fox said that to adjourn or not adjourn sine die and not have a date certain would be hard on everybody, especially temporary staff. You are limited to the 90 days in regular session, and it is clear in the constitutional convention transcripts that if you needed more days, it was left open to do that. If you tried to do it at 45 and 45 days, we would have to rethink transmittal deadlines, etc.

02:13:51 Rep. Hunter asked what would happen under the scenario of adjourning late and saving some days if the House and Senate did not agree on adjournment?

02:14:11 Mr. Everts said that a consent is required for adjournment or recess for more than 3 calendar days.

▶ **Leadership structures, staffing support - Lindsey Grovom**

02:15:33 Ms. Grovom gave a presentation on the research she did regarding personal staff of legislatures in western states. (**Exhibit 13**)

Committee questions

02:17:04 Sen. Essmann asked if the Arkansas Legislature uses staff or presiding officers during the interim?

02:17:38 Ms. Grovom discussed Arkansas' service staff.

02:19:10 Rep. Hansen asked about Ms. Grovom's word processing staff.

02:19:56 Ms. Grovom said that their word processors respond to letters and emails that come through their office. With the electronic era, the need has diminished and staff has been downsized.

02:20:47 Rep. Hansen said that during the interim our legislative staff is primarily assigned to staffing interim committees, etc., but if a legislator wanted help with research on individual bills or issues that come up, that request takes second or third place based on priorities of the current staff.

02:22:01 Ms. Grovom said that in Arkansas, their word processing service does not do legislative research.

02:22:31 Rep. MacDonald said that she was intrigued by the difference between the senate and the house in Washington's legislature. She asked if Ms. Grovom could describe their staffing during the session and during the interim.

02:23:07 Ms. Grovom said that both houses in Washington have high priority for session-only staff for their appropriation finance chairs.

02:24:44 Sen. Larsen asked if Ms. Grovom found a broad diversion from state to state with respect to what a personal staffer does.

02:25:36 Ms. Grovom said there is the common denominator that they're legislative assistants, and usually they are doing the same type of work for that legislator. Ms. Grovom said that the Council needs to decide if your needs are more constituent-based or if you prefer to have more of the legislative assistants that are going to dive deep and do that partisan research for you.

02:28:42 Ms. Fox addressed Rep. Hansen's concern on information requests.

02:31:47 Rep. Hunter commented on recognizing the party structure as the official way we do business in the Legislature and Ms. Fox's point about those aides used during session that are purely administrative in nature and yet other things that are being part of a team that is serving the party.

02:33:42 Ms. Fox said the Ms. Grovom's work this interim is a preliminary test of this although she has been working more broadly in the House and not as political staff.

02:35:19 Rep. Hansen said that when she brought her bill to revise the calendar, the overarching piece of that was to strengthen and reassert authority as a co-equal third branch. She asked about the 16-hour rule for information requests that is budgeted for each legislator for research time during the interim.

02:36:55 Ms. Fox explained the 16-hour rule regarding information requests.

02:40:30 Rep. Bennett asked if they have the same capacity to ask questions when it comes fiscal matters to the Fiscal Division.

02:40:41 Ms. Fox said that we are all under the same Administrative Manual.

02:41:44 ▶ **Legislator compensation and survey results - Susan Fox**
Ms. Fox discussed the document "Legislator Compensation and Job Description and Classification". ([Exhibit 14](#))

02:53:06 Ms. Fox discussed the document "A Study of Seven State Legislatures - Legislative Compensation and Living Expense Allowances During Sessions". ([Exhibit 15](#))

02:53:51 Ms. Fox discussed the Legislator Information Technology Allowance form ([Exhibit 16](#)) and the "History of Legislator IT Allowance". ([Exhibit 17](#))

Committee questions

02:56:19 Sen. Essmann asked what the matrix would be per capita per biennium for state

02:56:54 residents?
Ms. Fox said that she had collected some data on other western states' budgets and she can add what that percentage is of the state budget.

Lunch Break - reconvened at 1:17 p.m.

04:17:10 ▶ **Budget processes in other states - Susan Fox**
Ms. Fox discussed the budget processes of other states. (**Exhibit 18**)

04:31:12 Committee questions
Rep. Hansen discussed her concern about legislators on the appropriations committee who do not have experience with the budget process. She also asked about the revenue committee not meeting in the same format as the appropriations committee.

04:34:32 Ms. Fox said that she and Ms. Carlson had discussed the fact that the revenue deadline is after the appropriations deadline.

04:36:38 Sen. Essmann said that the suggestion would be that the House and Senate Tax could meet jointly to consider various proposals for changes to the taxation system, act on those jointly earlier in session instead of taking them up in regular order.

04:45:05 Ms. Fox discussed **changes in the budget process** that will affect the budget and the session systems.

04:46:04 Committee questions
Sen. Essmann asked about HB 2 not being in the LAWS system.

04:46:08 Ms. Fox explained the WordPerfect processing system and the use of macros. She said that HB 2 is developed in Microsoft Word which does not use macros.

04:47:42 Rep. Hansen talked about when changing the Legislative Calendar to meet in the even-numbered years, there were major timing changes within the Executive Branch as to when it would have to start gathering numbers, submitting them, etc. Rep. Hansen asked if that analysis of the law be done yet.

04:47:48 Ms. Fox talked about either coming into session and adopting a one-year budget and starting the EPP process again, or adopting a 3-year budget.

04:49:37 Rep. Hansen asked about what that change would look like if we did a one-year transition versus a 3-year transition, and what sections of code would be affected.

04:51:38 Amy Carlson, Fiscal Analyst, said that the Fiscal Division would come up with some questions and run those by the Council at the next meeting for discussion.

04:56:22 Rep. Hansen asked Ms. Carlson what her thoughts were on the revenue process and whether or not we should have a revenue process that looks more like the appropriations process.

04:56:48 Ms. Carlson said she supports consolidating those deadlines.

04:59:12 Ms. Carlson discussed the Legislative Fiscal Division's memo on the Budgeting Process. (**Exhibit 19**)

05:05:56 Committee questions
Sen. Essmann commented on the second page of ideas.

05:10:05 Rep. Hunter commented on testing the water before asking staff to do additional analytical work.

05:11:05 Sen. Sesso said he is interested in having more discussions about how we get more

- members comfortable in participating in the budget process.
- 05:17:04 Rep. Vance asked if Rep. Hansen would request those high level questions herself.
- 05:17:34 Rep. Hansen said that her intent was never to change the process but to maybe change the timing of the session or the timing of the budget process.
- 05:19:27 Sen Essmann asked Ms. Carlson how much of her time or staff time would it take to accomplish Rep. Hansen's request?
- 05:19:38 Ms. Carlson said maybe an hour meeting and an hour writing it up.
- 05:20:58 Rep. Hunter said he doesn't want to get into a discussion regarding information requests where we are suggesting that we want to pursue an avenue that we don't really want to pursue.
- 05:21:09 Sen. Essmann agreed.
- 05:22:23 ▶ **Calendar review: deadlines for bills, committee action, revenue bills**
Ms. Fox discussed information on bills and deadlines. ([Exhibit 20](#))
- 05:25:44 Marilyn Miller, Secretary of the Senate, distributed samples of past session calendars and briefly explained them.
- 05:30:14 ▶ **Rules Subcommittee**
Ms. Fox said that a Rules Subcommittee has not been convened but Sen. Essmann said that a rules subcommittee had already been appointed.
- 05:33:14 Rep. Bennett commented on the rule regarding co-sponsorship of draft legislation. He discussed what he would like in the rules and to have a better way to understand the sponsor list.
- 05:35:14 Sen. Essmann said that he and Susan will first identify who the committee members are, query the members, and then try to form both the Committees as a Whole and the subcommittee members.

PUBLIC COMMENT - none

- 05:36:21 ▶ **Floor privileges and access - Susan Fox**
Ms. Fox discussed both South Carolina's and North Carolina's rules regarding floor access to news media and lobbyists.
- 05:40:09 Sen. Larsen asked about the quiet period after session day ends and his concern about changing that.
- 05:40:30 Sen. Essmann said the rules are different in the House and the Senate, and there are no discussions of limiting it but maybe expanding that.

SESSION PREPARATION

- **Legislator Orientation and Training: Proposed Curriculum**
 - ▶ **November 2014 Schedule**
- 05:41:59 Ms. Fox discussed the orientation schedule for November 2014. ([Exhibit 21](#))

Committee discussion

- 05:55:29 Sen. Essmann discussed two issues: getting feedback from people who had previously or who are currently serving in leadership in the House, and the request for committee assignments.
- 05:56:31 Rep. Hunter said it is useful, particularly for the freshman, to hear about the committees and what is involved in the committees.
- 05:57:46 Rep. Hansen would like to know if there is some room to have additional caucus time built into the schedule to get to know who just got elected.
- 05:59:37 Sen. Sesso discussed giving members a couple of days to fill out the assignment form before submitting the requests.
- 06:01:43 Rep. Hunter said it would be helpful for the freshman legislator to understand some of the dynamics about how those choices were made.
- 06:06:35 Rep. Bennett said that he liked the process of committee requests coming in early with leadership having the rest of the time to actually work on putting the committees together.
- 06:08:43 Rep. MacDonald discussed having a caucus breakfast where the assignment forms are passed out, have a discussion about the committees, have newly elected leaders speak at those breakfasts, and letting people know about the deadline to get the forms back.
- 06:09:31 Sen. Essmann asked about the idea of staff introducing the committees on the afternoon of the first day and then the caucuses getting together for breakfast on the morning of the second day.
- 06:11:00 Rep. Blasdel asked if there was a way to mail the form and a small paragraph of every committee to the members before orientation.
- 06:13:21 Rep. Bennett suggested asking for the legislator's background that would be relevant to the committees to which they want to be assigned.
- 06:14:59 Sen. Essmann asked Ms. Fox if she wanted to work on that and bring something back to the next meeting.
- 06:15:10 Rep. Hunter said that that is important particularly depending upon where the committee ends up with the common e-mail address issue. He suggested considering that in another time slot with some later training.
- 06:16:29 ▶ **December 2014 Schedule**
Ms. Fox gave a presentation on the December 2014 Schedule. ([Exhibit 22](#))
- Committee discussion
- 06:22:35 Sen. Essmann asked if there was any need to come back the first week of December.

06:24:17 Sen. Larsen commented on the number of new legislators and that those people might be interested in having two more days of orientation.

06:26:22 Sen. Essmann said that he would like the issue of ethics to be a part of the formal orientation process for legislators. It is important and there should be a discussion as to when is the best time to raise the seriousness of an ethics issue with new legislators before they get themselves into trouble.

06:30:02 Ms. Fox asked if the committee would like to review what is proposed for the first couple of days of session, work around that to help make the choice on whether December is appropriate to expand or add another track.

06:30:48 ▶ **January 2015 Schedule**
Ms. Fox discussed the January 2015 Schedule. ([Exhibit 23](#))

Committee discussion

06:36:41 Sen. Essmann asked if the section on Law School for Legislators will run the full four hours.

06:36:48 Sen. Essmann said he would like to get either an FBI or a prosecutor to speak at the Law School session.

06:37:25 Rep. MacDonald discussed the hours need for Class I on Wednesday morning.

06:38:29 Sen. Essmann asked Rep. Hunter how long the House would like to have for an organizational meeting that first Wednesday morning. Rep. Hunter said an hour.

06:39:28 Ms. Carlson discussed having a high level budget review early December if that was something that the committee would find useful.

06:40:28 Hope Stockwell, Research Analyst, suggested moving ethics to the January schedule and putting together a program that gives members a better understanding of the powers they have as members and their rights as members of committees. She discussed having a set of guidelines for committee operations and having a discussion on an overview of interim committee work that ties into standing committees.

06:43:20 Sen. Sesso asked if Ms. Stockwell wanted feedback on whether or not it would be a good idea to have the agency personnel be introduced to the committees.

06:43:34 Ms. Stockwell said that some committees have allowed the agency personnel to come and introduce themselves at one of their first meetings as a courtesy.

06:52:54 Sen. Sesso said that there are several members of his caucus who really would like a discussion about proxy voting.

06:53:43 Ms. Fox said that they will provide some options on proxy voting that can either go to the Rules Subcommittee or into orientation and training.

PUBLIC COMMENT - none

- **TVMT and Social Media and Constituent Relations**
06:55:06 Ms. Fox said that the agenda items "TVMT and Social Media" and "Constituent Relations" will be rescheduled for the June meeting.
- **Proposal for parking shuttle**
06:56:33 Ms. Fox discussed the issue of allowing and re-enforcing residential parking permit areas around the Capitol area during session.

2015 SESSION BUDGET PREPARATION

06:59:13 Ms. Fox said that she will e-mail a list regarding budget preparation to the committee members and asked for guidance as she is going through the process of getting the Branch budget together.

Committee questions

06:59:42 Sen. Driscoll asked about the budgeted amount for the IT Allowance.

06:59:57 Ms. Fox talked about why the amount of the allowance went down.

07:00:32 Sen. Driscoll asked if that is something that the Legislative Council can change in the budget?

07:00:40 Ms. Fox said yes and that more information will be forthcoming.

07:01:02 Sen. Essmann asked about the estimate in the budget for PNWR.

07:01:19 Ms. Fox explained that the PNWR budget will pay for attendance at the PNWR conference in Whistler, Canada, in preparation for the 2015 Summit Conference. She said there is enough money in carry forward to supplement the PNWR budget.

Motion to transfer funds to the PNWR budget

07:04:53 Sen. Sesso moved to transfer up to \$24,000 from carry forward to the PNWR budget to accommodate Montana's presence at the 2015 Summit in Whistler, Canada. The motion passed unanimously by voice vote.

NEXT MEETING DATE

07:06:53 There was a discussion regarding the next meeting date that is scheduled for June 10.

07:07:33 Sen. Essmann asked if the August meeting could be rescheduled to Tuesday, August 26. Sen. Essmann suggested meeting on September 4th. Ms. Fox was given the authority to submit a preliminary budget before the deadline.

ADJOURNMENT

07:12:47 With no further business before the committee, Sen. Essmann adjourned the meeting at 4:16 p.m.