



# Legislative Council

## 63rd Montana Legislature

### SENATE MEMBERS

JEFF ESSMANN--Chair  
DEBBY BARRETT  
ROBYN DRISCOLL  
CLIFF LARSEN  
JON SESSO  
CHAS VINCENT

### HOUSE MEMBERS

CHUCK HUNTER--Vice Chair  
BRYCE BENNETT  
MARK BLASDEL  
KRISTIN HANSEN  
MARGARET ( MARGIE ) MACDONALD  
GORDON VANCE

### COMMITTEE STAFF

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

## MINUTES LOG

June 9, 2014  
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.

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.

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. DEBBY BARRETT  
SEN. ROBYN DRISCOLL  
SEN. CLIFF LARSEN  
SEN. JON SESSO  
SEN. CHAS VINCENT

REP. BRYCE BENNETT  
REP. MARK BLASDEL  
REP. KRISTIN HANSEN  
REP. GORDON VANCE

### COMMITTEE MEMBERS EXCUSED

REP. MARGARET (MARGIE) MACDONALD

### STAFF PRESENT

SUSAN BYORTH FOX, Executive Director  
TODD EVERTS, Legal Director  
FONG HOM, Committee Secretary

## **AGENDA** [\(Attachment 1\)](#)

## **VISITORS' LIST** [\(Attachment 2\)](#)

### **COMMITTEE ACTION**

- The Council authorized the bill draft requests for the Office of Budget and Program Planning (HB2 through HB15).
- The Council agreed to make a change to the December Legislative Orientation Schedule by flipping the December 4th morning activities with the afternoon activities with the exception of the NCSL presentations. Those presentations would be added to the January 7 schedule while keeping the Ethics sessions in the afternoon of December 4th.
- The Council agreed to change the House Fish Wildlife and Parks and the House Local Government to a class 2 standing committee; and the House Federal Relations Energy and Telecommunications and the House Transportation to a class 3 standing committee.
- The Legislative Council will continue to meet during the legislative session.

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

00:00:01 Rep. Hunter called the meeting to order at 1:03 p.m. The secretary called roll. Rep. MacDonald was excused. [\(Attachment 3\)](#)

### **TVMT AND SOCIAL MEDIA: IDEAS FOR NEXT SESSION, TRAINING - K'Lynn Sloan-Harris**

00:02:05 Ms. Sloan-Harris reported on the renovations and upgrades that were done in the committee hearing rooms. Ms. Sloan-Harris also gave a presentation on the Legislator Introduction videos. She asked for direction on legislative original programming for Television Montana.

#### Committee questions

00:10:48 Sen. Essmann asked if legislators in Arkansas participate in any media opportunities and what that percentage might be.

00:11:10 Ms. Sloan-Harris said that she will check and let the committee know if Arkansas has gotten everybody to do it.

00:11:41 Sen. Essmann asked about the duration of the spot.

00:11:48 Ms. Sloan-Harris said the first spots would be 45 to 60 seconds.

00:12:53 Sen. Larsen asked about the FaceBook page. Ms. Sloan-Harris said that they use the FaceBook page to put information on.

00:14:09 Rep. Bennett asked if there is a possibility in the future to have links to the social media sites so if someone goes to his page, they could be linked to the pages and accounts that he has.

00:14:32 Ms. Sloan-Harris said that that is possible but that is a larger discussion for the body to have about the implications of that.

00:14:45 Rep. Hunter said that we have a subcommittee on electronic communication tomorrow and we could take that topic tomorrow.

### **CONSTITUENT RELATIONS - Sonia Gavin, Legislative Librarian**

00:15:44 Ms. Gavin gave a presentation on the Communications Office development of a Speakers Bureau.

#### Committee questions

00:23:46 Rep. Hunter asked about the protocols and structure of those programs in Wyoming dealing with the issue of partisanship and the fair portrayal of the issues between parties.

00:24:24 Ms. Gavin gave a brief summary of the tips from Wyoming.

00:25:53 Rep. Hunter said that his question was more on the governance of the process.

00:26:29 Ms. Gavin said that staff can assist with whatever the leaders decide.

### **LEGISLATIVE SERVICES DIVISION UPDATES - Susan Fox, Executive Director, Legislative Services Division**

00:26:45 Ms. Fox discussed the retirements of Sally Bush and Bart Campbell.

00:28:40 Ms. Fox gave an update on the HVAC project.

00:30:49 Ms. Fox said that she has been appointed to serve on NCSL's Executive Committee. Ms Fox discussed future conferences by NCSL, and said that if anyone wanted to participate, she will notify NCSL.

00:34:22 Ms. Fox discussed NCSL's American Legislator Survey and encouraged the legislators to fill out the survey.

### **2015 SESSION PREPARATION**

- **Governor's Office of Budget and Program Planning bill draft requests - Amy Sassano**

00:36:57 Ms. Sassano distributed a list of proposed legislation from the Governor's Office. **(Exhibit 1)**

#### Committee questions

00:37:44 Sen. Barrett asked why HB 14 is not on the list.

00:38:03 Ms. Sassano explained that HB 5 and HB 14 are combined.

00:38:10 Sen. Essmann said that he thought that TSEP was going away with the pension fix.

00:38:23 Ms. Sassano said that there will always be a TSEP but funds will be diverted differently.

00:39:12 Sen. Barrett asked if the committee will see the costs.

00:39:19 Ms. Sassano said that there is a statutory set of deadlines that go into the Governor's budget and that is November 15.

#### **Motion**

00:39:02 Rep. Bennett moved to authorize the drafting of HB 2 through HB 15. **The motion passed with Sen. Barrett and Rep. Vance voting no.**

- **Adoption of Legislative Session Calendar**

00:40:29 Ms. Fox discussed the proposed legislative session calendar. [\(Exhibit 2\)](#)

#### Committee questions

00:44:27 Sen. Essmann said that Rep. MacDonald raised the issue of a break that retains some days at the end of the session so that the Legislature could return and deal with governor vetoes or governor amendatory vetoes. He asked that this discussion be deferred to give Rep. MacDonald another shot for advocating for that concept.

00:45:57 Ms. Fox asked about constructing a calendar with a 3-day transmittal break.

00:46:31 Rep. Hunter said that it would be useful to get the alternative done by the end of this afternoon so people can look at before tomorrow.

- **Legislator Orientation and Training: Proposed curriculum and dates**

#### **November Schedule**

00:47:04 Ms. Fox discussed the November 12 schedule. [\(Exhibit 3\)](#)

00:49:22 Ms. Fox discussed the Committee Preference Form developed by Lindsey Grovom. [\(Exhibit 4\)](#)

00:49:46:00 Ms. Fox discussed the draft brochure "Guidelines for Being an Effective Committee Member". [\(Exhibit 5\)](#)

#### Committee questions on the November schedule

00:54:02 Rep. Hansen asked if it was possible to have the Committee Preference Form, the brochure, and a copy of the old rules mailed to all freshmen legislators after the election so that they could have this on hand. Ms. Fox said that they could do that.

00:55:56 Rep. Bennett said he noticed that the discussion on ethics was moved to the

December meeting and he thought that there was some talk that that training was important enough to be on the November schedule.

▶ **December Schedule**

00:57:32 Ms. Fox discussed the December schedule. [\(Exhibit 6\)](#)

▶ **January 5 and 6 Schedule**

01:01:26 Ms. Fox discussed the January schedule. [\(Exhibit 7\)](#)

▶ **January Schedule with No December Training**

01:03:03 Ms. Fox presented a January schedule with no December training. [\(Exhibit 8\)](#)

Committee discussion

01:03:55 Ms. Fox discussed having enough funds to have a second training session with legislators getting paid to attend.

01:05:24 Rep. Hunter said that the decision is to have the normal session here around caucus and training that day. He asked if the committee members wanted to adopt that as a session and therefore have a smaller agenda in January, or do they want the more full traditional agenda in January?

01:06:09 Rep. Hansen said that she liked the November agenda in conjunction with the December and shorten January agendas.

01:07:32 Rep. Bennett said he is more turned towards having the November and January pieces without the December because he doesn't think that the attendance will be high in December.

01:09:11 Sen. Essmann said that he likes the structure of the Thursday, December 4 morning, and doing Law School either that afternoon or Wednesday morning.

01:10:51 Rep. Hansen said she is in favor of the December meetings because that is valuable time in finding housing.

01:15:16 Rep. Hunter said he is more in favor of going ahead with the December meeting, having more of the ethics discussion and making sure that that is available in the January session.

01:20:50 Rep. Hansen said that, in terms of legislators being able to come in December, people can actually talk to staff about their bill drafts.

01:21:11 Sen. Essmann suggested moving training to the morning slots; rules and procedures and budget training, in the morning and then in the afternoon you could have opportunity for caucus meetings and meetings with your bill drafters.

01:24:32 Rep. Hunter said that he thinks that the new people would benefit from a more structured training session, but he also hears the value of the ability to work with drafters in the afternoon.

01:26:48 Sen. Essmann suggested implementing an appointment system so staff could reserve a 15-minute block, etc., to help draft bills.

01:27:38 Ms. Fox said she could suggest that and let legislators know ahead of time if they need an appointment.

**Motion**

01:28:31 Sen. Essmann moved to adopt the November schedule as proposed, adopt the December schedule with the change on December 4 to include the legislator training tracks 1 and 2, and the biennium budget preview in the morning, and move the 3-hour block on custom, decorum, ethics and ethic laws to the proposed January 7, Wednesday, 9 a.m. to 12 schedule.

Committee discussion

01:29:42 Sen. Sesso asked if Sen. Essmann's motion was to only have a 1/2 day structured training on the Thursday, or to flip Thursday afternoon to the morning and then still have the morning sessions in the afternoon.

01:31:28 Sen. Essmann said that it would end up being a 1/2 day for the people who would show up.

**Substitute motion**

01:32:19 Sen. Sesso said that he would have a friendly amendment to the motion and this is to allow the December 4th agenda as proposed by staff to be flipped so that the afternoon activities are in the morning and the morning activities are in the afternoon with the exception of the NCSL people, that would be shifted to the January 7 for everybody, and still have those sessions on ethics in the afternoon on the 4th. **The motion passed unanimously.**

• **Proposal for parking shuttle**

01:34:07 Ms. Fox gave an update on the parking shuttle proposal. A meeting is scheduled for June 18th with the Department of Administration and representatives from the Helena Area Transportation System.

• **Childcare, flex accounts information**

01:36:33 Ms. Fox provided information on the proposal of child care being provided at the Capitol. Lindsey Grovom has found some state licensed childcare centers that are interested in caring for infants this coming session. The Legislative Services Division is planning to do childcare the same way as they do the Housing List.

01:38:07 Ms. Fox discussed the flexible spending accounts. Pre-taxed dollars can be set aside for either medical savings or for daycare.

Committee discussion

01:40:23 Sen. Essmann asked if there needs to be a statutory change to give legislators an opportunity to use a flex account.

01:40:36 Ms. Fox said that this is determined by the IRS guidelines and a statutory

change is not needed. If the committee is interested in pursuing this, she will provide more details on establishing a flex account.

- **Session committees**

- 01:42:00 Ms. Fox discussed the document "Session Standing Committees". (**Exhibit 9**) She said that leadership is always available for purposes of a quorum and is considered a nonvoting member.
- Committee discussion
- 01:51:21 Rep. Hansen asked about the House Education and the House Fish Wildlife and Parks, and would there be an objection to switching Education and FWP.
- 01:52:30 Sen. Vincent said that he would like to switch with Senate Education and put Senate Natural Resources in Room 303.
- 01:53:05 Sen. Larsen said that he would second Sen. Vincent's recommendation.
- Motion**
- 01:53:54 Sen. Vincent moved that Senate Natural Resources and Senate Education switch rooms but remain the same class. **The motion passed.**
- Motion**
- 01:54:22 Rep. Hansen moved that House Education be made a class 3 standing committee and House FWP be made a class 2 standing committee.
- Committee discussion
- 01:54:52 Rep. Hunter asked if these would go as recommendations to new leadership.
- 01:55:04 Rep. Bennett said that it makes sense to move House Federal Relations Energy and Telecommunications to a class 3 because in the past they have met two days a week and their bills have numbered 38. If we are moving FWP to a class 2, the more likely switch would be with FRET.
- 01:57:44 Rep. Hansen **withdrew** her motion.
- Motion**
- 01:57:46 Rep. Hansen moved that House Fish Wildlife and Parks be made a class 2 standing committee, and House Federal Relations Energy and Telecommunications committee a class 3 standing committee and leaving House Education alone. **The motion passed unanimously by voice vote.**
- 01:59:57 Sen. Essmann asked if it would make sense that House Transportation become a class 3 standing committee since Senate Transportation is a class 3.
- 02:01:24 Rep. Hunter said that that committee is small, interest is small and he thought it was appropriately placed and worked well last session.

**Motion**

02:01:29 Rep. Vance moved that House Transportation be moved to a class 3 standing committee.

Committee discussion

02:02:02 Rep. Bennett said that moving it down to a Tier 3 might give expanded opportunities for a class 3, but to compensate so everybody has opportunities for class 2 we are now going to have to have larger committees and trying to find space where we can.

02:03:11 Sen. Sesso said that he is not in favor of dropping it down and having four class 3s and four class 2s.

02:03:40 Rep. Vance **withdrew** his motion.

**Motion**

02:05:40 Sen. Sesso moved to make House Transportation a class 3, and House Local Government a class 2. **The motion passed unanimously by voice vote.**

02:06:32 Mr. Everts said that this would be a House Rules change and that would go into the proposed rules coming out of Legislative Council to the Rules Committee.

• **Discussion on having minority representation on Committee on Committees**

02:06:57 Sen. Sesso said that on behalf of certain members of his caucus, he would like the committee to consider a discussion or a motion to provide for minority representation on the Committee on Committees in the Senate.

02:09:19 Rep. Hunter asked staff to explain how the Committee on Committees operates and how they get appointed.

02:09:42 Ms. Fox said that the Committee on Committees is elected by the majority caucus. She said she can research whether there has been minority representation or not on the Committee on Committees.

**BREAK** reconvene at 3:34 p.m.

**Motion**

02:31:10 Sen. Sesso moved to make a recommendation to leadership and the Rules Committee that minority representation be offered on the Committee on Committees.

Committee discussion

02:31:40 Sen. Essmann asked how would Sen. Sesso proposes to implement that in the House.

02:31:53 Sen. Sesso said that that is specifically for the Senate. The House process is different, the Speaker of the House makes all the appointments.



- 02:32:39 Sen. Vincent asked Sen. Sesso if his reasoning is to get a minority member that could represent what they believe the strengths and the qualities of different people in different places are or would be.
- 02:33:00 Sen. Sesso said yes, that would primarily be the motivation.
- 02:33:06 Sen. Vincent asked if there was an example of the Committee on Committees that you know of that rejected the minority appointments?
- 02:33:44 Sen. Sesso said he has had no complaints about how it has worked in the past. He only makes this suggestion to improve the representation of the minority in that very critical process. He doesn't bring the recommendation by way of a complaint, only to improve the legislative process.
- 02:34:54 Sen. Essmann said that he will oppose the motion for the reason that elections should have consequences. That does not mean the majority doesn't have responsibilities to the minority in terms of fair treatment and respect.
- 02:37:27 **The motion failed on roll call vote, 6-6. (Attachment 4)**
- **Rules of Procedure**
- 02:40:44 Ms. Fox discussed the draft Rules of Procedure for 2015. (Exhibit 10)
- 02:44:56 Committee questions  
Sen. Barrett asked about Item B. 2, the statement, "amendments must be in the title of the bill".
- 02:45:38 Mr. Everts said that it depends on what the first statement of the title is.
- 02:46:52 Sen. Barrett asked when a bill becomes a revenue bill by adding a tax to keep it alive, does that have to be "generally revised"?
- 02:47:28 Mr. Everts said not necessarily if the fee is related to what's articulated in the purpose of the title originally, then it can be converted.
- 02:53:39 Rep. Hunter discussed Item A. 4, Hearing Process, Informational witnesses. He asked the committee members if they wanted to do something now or have the Rules Subcommittee take a look at this.
- 02:55:50 Sen. Essmann said that he offers four specific changes that he would like to make before the Rules Committee handle it.
- Item A. 4, Informational Witness. Is it proper for them to introduce themselves but not offer testimony. If they want to offer testimony, they should pick a side.
  - Item C. 4, Cell Phones and other Communication Devices. He would like to strongly state that the committee members' attention should be focused on the work of the committee.
  - Item D, Executive Action. Absentee voting through the use of a standard

proxy form. Traditionally, proxy rules for committees have been decided by the committee at the beginning of the session. That should be mentioned so everybody is aware of the grounds rules.

- Item A. 4, Amendment. He objects to the term "lobbyist amendments" and suggested that that be removed.

02:58:27 Rep. Hunter asked if it was the committee's consensus that this be moved to the Rules Committee.

02:58:31 Sen. Driscoll suggested saying, "if you are appointed to a committee, your attendance is expected on the committee".

02:59:01 Rep. Hunter said that he will make sure that the Subcommittee looks at this.

- **Legislative Council consider recommendation for immediate appointments and use regularly as "leadership meetings"**

02:59:28 Ms. Fox said according to statute (5-11-101, MCA), there will be a legislative council and members are to be appointed immediately following organization of the senate and the house of representatives. Ms. Fox requested that the Legislative Council members be appointed early and also recommended that the Legislative Council meet during session.

#### **Motion**

03:02:36 Sen. Driscoll moved that Legislative Council meetings continue to meet during the legislative session. **The motion passed unanimously by voice vote.**

- **Rules Subcommittee - solicit information for meeting**

03:03:31 Ms. Fox talked about situations where a chair cannot conduct a good meeting if their vice chair is of a majority party. That issue would to be resolve if the ranking minority member could be of assistance to the chair and to their own caucus. Ms. Fox said that there are no rules. She would like some clarification one way or the other because it is important that the chairman has that assistance from both sides of the aisle.

03:08:32 Ms. Fox discussed items on the list: Sen. Essmann's discussion about leadership appointments to committees; Rep. Bennett's issue of co-sponsors of bills; and nominations from the Governor and the Senate's approval of appointments. Ms. Fox said that she is working with Marilyn Miller on new language because of a proliferation of resolutions last session that were cumbersome and followed different processes than other bills.

03:10:07 Sen. Essmann said the committee should discuss moving the transmittal date for revenue bills up in the calendar so it's not a last minute item.

03:10:30 Rep. Hansen said that she has some questions about particular subjects being put together in one bill under a "generally revised" title. She is asking for clarification on when a bill exceeds the scope of its title and starts to look like an omnibus bill.

- 03:11:23 Mr. Evert said that it is all based on the one-subject rule under the constitution and the exception to that one-subject rule in bills is the general revision process and also the HB 2 appropriation process.
- 03:14:19 Sen. Barrett asked about other bills that come late in the session, such as SB 410.
- 03:14:32 Mr. Everts said that he could take a look at SB 410. He said that there are bills that are non-House Bill 2 bills that deal with policy and statute and they have an appropriation section attached. When you are talking about the general appropriation bill, there's definitely specific legal and constitutional guidance regarding what can be in that bill.
- 03:15:49 Rep. Hunter said he would like a limited discussion on a limited debate on blast motions and how timing is clocked on cloture motions.

**PUBLIC COMMENT - none**

**LEGISLATIVE IMPROVEMENT**

• **Information request on even-year session - Taryn Purdy, Legislative Fiscal Division**

- 03:17:27 Ms. Purdy gave a presentation on the Legislative Fiscal Division's assumptions if there were changes made to the session calendar. [\(Exhibit 11\)](#)
- 03:18:24 Ms. Purdy gave a presentation on statutes to consider if changing the session calendar. [\(Exhibit 12\)](#)
- 03:18:41 Ms. Purdy gave a presentation on questions to ask if there was a "session recess". [\(Exhibit 13\)](#)
- Committee questions
- 03:20:56 Ms. Fox said that Mr. Everts has information on compensation that might be related to this discussion.
- 03:22:38 Rep. Hansen asked about budget law dates.
- 03:23:01 Ms. Purdy said that when you talk about budget dates in statute, those would apply to either year. If you were to keep the status quo, then there wouldn't need to be changes in those dates.

• **What do other legislatures do: Fourth Installment**

- 03:25:11 Ms. Fox gave a presentation on A Study of Other Legislatures: Interim Committees [\(Exhibit 14\)](#), and discussed comparative information on Interim Committees for 10 States [\(Exhibit 15\)](#).

- Committee discussion
- 03:35:34 Sen. Essmann said that he would like Mr. Everts to write a legal memorandum regarding the constitution not prohibiting us from meeting each year; not requiring us to meet for the 90 days; and that we meet in the odd numbered years. From that standpoint, the legislature could by rule make a change with respect to when and how we meet. He would like Mr. Everts to write a memorandum either agreeing or disagreeing with that.
- 03:37:14 Rep. Hunter directed Mr. Everts to write that memorandum.
- 03:37:41 Ms. Fox distributed copies of the 2011 session calendar ([Exhibit 16](#)) so that the committee could see which days the Legislature had taken off, and to compare that with a proposed 2015 session calendar ([Exhibit 17](#)).

## **COUNCIL BUSINESS**

- **Legislative space and long-range planning overview**

- 03:40:28 Ms. Fox said that in 2011, the Legislative Services Division was given money to conduct an space study. A CD was made that included the space study for the basement, the 1st, 3rd, and 4th floor of the Capitol Building. She said the Council could either discuss the Master Plan in September or put it on the agenda for next interim.

- Committee discussion
- 03:43:36 Sen. Larsen asked if the Department of Administration could move the legislature around?
- 03:43:53 Ms. Fox said that they can't move the House and Senate. Legislative space in the Capitol may not be reduced without consent of the Legislature (2-17-108, MCA).
- 03:45:53 Sen. Essmann discussed increasing the amount of space available for the Legislative staff and the Legislature itself and have further discussion on that idea.
- 03:47:26 Rep. Bennett said that he is open to the idea of a tour that was mentioned by Ms. Fox.
- 03:48:27 Sen. Barrett said she would like to revisit this in September and not wait until next interim.

- **Governor's Security Committee report**

- 03:49:28 Ms. Fox gave a brief report on the activities of the Governor's Security Committee meeting.

- Committee questions
- 03:51:15 Rep. Hunter asked about the Capitol Building hours during the weekend.

03:51:44 Ms. Fox said that she has the new Capitol Use Policy and she will get a copy of that for the committee and include that in the September meeting.

03:52:07 Rep. Hansen asked about legislators turning in their access key after session.

03:52:49 Ms. Fox said that when you trade in your mag lock you are supposed to get another identification card. She can discuss that with the Department of Administration.

03:53:58 Sen. Essmann said that he participated in the last Security Committee meeting and one of the tasks that the committee is doing is having an outside group come in and do a security review on how to protect the building and its occupants.

#### **NEXT MEETING DATES**

03:55:41 Rep. Hunter discussed the next meeting date that is set for September 4 and the need to pick a November date.

#### **RECESS**

04:02:45 Rep. Hunter recessed the meeting at 5:06 p.m. He reminded the committee that there will be an Electronic Subcommittee meeting from 8:00 to 9:00 with the full Council reconvening at 9:00 a.m., on June 10, 2014.

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