

**Council Senate Members**

BOB KEENAN--Vice Chair  
VICKI COCCHIARELLA  
BRENT CROMLEY  
DUANE GRIMES  
JON TESTER  
FRED THOMAS



**Council House Members**

KIM GILLAN--Chair  
ROY BROWN  
GEORGE GOLIE  
JEFF LASZLOFFY  
DOUG MOOD  
DAVID WANZENRIED

## Montana Legislative Council

PO BOX 201706  
Helena, Montana 59620-1706  
(406) 444-3064  
FAX (406) 444-3036

# MINUTES

September 16, 2004

Room 137, State Capitol  
Helena, Montana

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Committee tapes are on file in the offices of the Legislative Services Division.

**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**

REP. KIM GILLAN, Chair

SEN. VICKI COCCHIARELLA  
SEN. BRENT CROMLEY  
SEN. DUANE GRIMES  
SEN. JON TESTER  
SEN. FRED THOMAS

REP. ROY BROWN  
REP. GEORGE GOLIE  
REP. JEFF LASZLOFFY  
REP. DOUG MOOD  
REP. DAVID WANZENRIED

## **COMMITTEE MEMBERS EXCUSED**

SEN. BOB KEENAN

## **STAFF PRESENT**

Lois Menzies, Executive Director, Legislative Services Division, (LSD)  
Greg Petesch, Legal Director, Legal Services Office, LSD  
Dawn Field, Council Secretary, LSD  
Karen Berger, Financial Services Manager, LSD  
Hank Trenk, Director, Office of Legislative Information Technology LSD

## **AGENDA & VISITORS' LIST**

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

## **COMMITTEE ACTION**

- approved \$3500 of additional funding for Legislative Council on River Governance members and staff to attend the Portland meeting;
- approved the June minutes as written;
- adopted the 2007 Biennium Program 20 (LSD) Budget on a unanimous voice vote;
- adopted the 2007 Biennium Program 21 (Interim Committee activities) Budget on a unanimous voice vote;
- approved the Legislative Branch Temporary and Seasonal Pay Matrix on a unanimous voice vote;
- approved the Legislative Branch IT Plan and Budget for FY 2006-2007 on a unanimous voice vote;
- approved the proposed prices for Session Proceedings a unanimous voice vote;
- approved LC 0067 on a unanimous voice vote;
- approved LC 0068 on a unanimous voice vote;
- approved LC 0069 on a unanimous voice vote;
- approved LC 0070 on a 7 -1 voice vote, with Rep. Brown voting no;
- approved LC 0071 on a unanimous voice vote; and
- approved a 9:00 a.m. starting time for 2004 Party Caucuses.

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

REP. GILLAN called the meeting to order at 1:00 p.m. The secretary noted the roll, SEN. KEENAN was excused (ATTACHMENT #3).

## **INTRODUCTION OF NEW STAFF**

Lois Menzies, Executive Director, Legislative Services Division (LSD) introduced new LSD staff members: Steve Larsen, Network Support Specialist; Lori Gustin, Legislative Library

Technician; and Fong Hom, Legislative Secretary. The Council welcomed the new staff members.

### **REQUEST FOR FUNDING**

**Sen. Bill Tash** appeared before the Council to present an update on the Legislative Council on River Governance (LCRG) activities ( EXHIBIT #1) and to request additional funding in the amount of \$3500 for continued participation in LCRG, mainly for members and staff to attend the regional LCRG conference to be held in Portland, Oregon, in December 2004. Sen. Tash stressed the importance of maintaining Montana's influence in LCRG because of many factors such as monitoring other states' interest in Montana's natural resources, the continuing drought situation, power and energy issues, interstate water quality and quantity, fisheries, Endangered Species Act issues, and tribal concerns.

REP. MOOD asked how long Sen. Tash expected the additional funding would support the LCRG. Sen. Tash said the additional funding would cover LCRG expenses through the end of 2004.

REP. GILLAN informed the Council that Ms. Menzies confirmed that funds are available in the Program 21 budget.

REP. MOOD **moved** to approve the request for the additional \$3500 for the Legislative Council on River Governance. The **motion passed** on a unanimous voice vote.

### **APPROVAL OF MINUTES**

SEN. COCCHIARELLA **moved** to approve the June 25, 2004, minutes as written. The **motion passed** on a unanimous voice vote.

### **STATUS REPORT ON FY 2004 REVENUE COLLECTIONS**

**Terry Johnson, Principal Fiscal Analyst, Legislative Fiscal Division (LFD)**, distributed a report summarizing the preliminary fiscal 2004 ending fund balance data for the general fund account. The report also provided a comparison between budgeted data as developed by the 58th Legislature and what actually occurred in FY 2004, as well as aggregate information on revenue estimates and collections, disbursements and reversions, and an updated fund balance statement for the 2005 biennium. (EXHIBIT #2).

Mr. Johnson discussed the details of his report through a PowerPoint slide presentation (EXHIBIT #3). Important points discussed were:

- fiscal year preliminary balance;
- revenues;
- disbursements;
- reversions;
- adjustments; and
- a 2005 biennium outlook.

Regarding individual income tax, (Page 3, EXHIBIT #3), REP. GOLIE asked how the federal tax reform measures impacted the stronger wage growth. Mr. Johnson said he couldn't make a statement on that because the complete tax return data is not yet available. He also said he is convinced that there are other factors besides federal tax reform that have caused some of the increased growth.

REP. GOLIE asked if the federal tax reform caused Montanans to pay more in taxes. Mr. Johnson said the federal reform resulted in Montanans paying more in state income tax and less in federal income tax. REP. GOLIE asked if the state income tax would decrease if the federal tax reform is eliminated. Mr. Johnson said that assumption cannot be made because the impacts of SB 407 has the effect of capping federal taxes and must be factored in.

REP. GOLIE commented that while the increased revenue is welcome, Montana cannot count on it to continue. Mr. Johnson said that is the issue the LFD will be struggling with when preparing the "big picture" report for the Legislative Finance Committee.

REP. GOLIE asked, regarding the FY 2004 beginning general fund balance of \$29.6 million, how much was due to the federal money that Montana received in 2003 (Page 6, EXHIBIT #3). Mr. Johnson said the state received a grant of \$50 million, which was deposited in a federal account. It was used for fighting fires and for state agencies' needs. Even though the money was not deposited in the general fund, it impacted the general fund by reducing the amount spent, thereby increasing reversions. No extra money flowed into the general fund, it was simply reduced expenditures of about \$4 million in FY 2003.

SEN. COCCHIARELLA thought the inheritance tax would not continue to bring in the same level of revenue. Mr. Johnson said the key in 2004 was that there were five unusually large audits that contributed to the excess.

SEN. COCCHIARELLA asked Mr. Johnson if he thought the FY 2005 \$95.9 million projected difference would be ongoing. Mr. Johnson said it would be difficult to estimate that at this point in time because key information is not yet available, such as individual income tax data.

REP. BROWN commented that this is extremely good news for Montana and asked if there was a reason why some of these trends will not continue. Mr. Johnson said some trends were likely to continue, but that other categories will be very difficult to predict, such as oil and gas revenues. REP. BROWN asked Mr. Johnson if the \$95.9 million is a conservative estimate. Mr. Johnson said the estimate could be considered conservative.

SEN. THOMAS asked when Montana would begin to recoup the loss of corporate income tax revenue which occurred because of accelerated depreciation. Mr. Johnson said accelerated depreciation has affected state taxes but also will also reduce in subsequent years the amount that a corporation can write off in depreciation. The effects of SB 407 will hit significantly in the 2007 biennium by reducing income tax revenue by about \$90 million dollars. Mr. Johnson cautioned that it will be critical to structure the budget to reflect the revenue changes, in order to avoid creating a structural deficit.

REP. GILLAN asked, regarding Table 2 on Page 3 of EXHIBIT #2, if much of the unanticipated revenue came from the new taxes that were levied in 2003, such as the rental car tax and

cigarette tax. Mr. Johnson didn't believe that any of the additional revenue came from those new tax sources because they were the result of legislation and were included in the budget numbers.

**Chuck Swysgood, Office of Budget and Program Planning (OBPP)**, said Mr. Johnson's estimates closely match the figures estimated by the OBPP. Mr. Swysgood said the OBPP worked to maintain a balanced budget in the last biennium and that the Office will strive to do the same with the next budget. He said not having to think about the trigger was gratifying and allowed his staff to concentrate on other important issues. Mr. Swysgood cautioned that one-time revenue should be budgeted for one-time expenditures.

## **RECENT COURT CHALLENGES UPDATE**

**Greg Petesch, Code Commissioner**, referred Council members to his September 1, 2004, report (EXHIBIT #4) and discussed two cases:

- 1. Montanans for the Responsible Use of the School Trust v. Darkenwald - school funding challenge. The State appealed the District Court decision and the appeal was filed June 18, 2004. The State's position is that the Supreme Court should abstain from attempting to resolve the question of whether the state has adequately funded the basic system of free quality elementary public and secondary schools. The position is based on Article 10, Section 1, Subsection 3 of the Montana Constitution, that makes it the sole responsibility of the Legislature to provide a basic system of free quality public elementary and secondary schools and then to fund and distribute in an equitable manner the State's share of that system. The plaintiffs think that argument is flawed and that the Court has the right to determine what level funding is appropriate. It is a fundamental difference regarding the authority of the Legislature with regard to the authority of the Court to review the actions of the Legislature.
- 19. Challenge to SB 424 provision amending 20-9-501, MCA, regarding Impact Aid School Districts and retirement benefits. The use of impact aid money, under SB 424, violated a federal statute concerning the use of impact aid. The plaintiffs sought a preliminary injunction against enforcement of SB 242 in state District Court and were denied. The ruling was appealed to the Supreme Court, which issued an order staying amendments to section 20-9-501, MCA, made by SB 424. Mr. Petesch commented this was an unusual procedure and wasn't certain what would result from it.

REP. GILLAN asked how this would affect the Impact Aid school districts. Mr. Petesch said the school districts are not able to use the Impact Aid to pay for retirement because that requirement has been enjoined.

Mr. Petesch said he would include information in his next report to the Council on the District Court decision finding the grazing lease preference unconstitutional.

REP. GILLAN asked Mr. Petesch to comment on Stroebe v. State (Item 6, EXHIBIT #4). Mr. Petesch said he believes the outcome of the Stroebe case will be dependent on the Supreme Court's resolution of the Montanans for the Responsible Use of the School Trust v. Darkenwald case. Mr. Petesch thought that after a decision is reached in that case, motions to dismiss the Stroebe case will be filed.

SEN. COCCHIARELLA noted that, regarding Item 7. - Stavenjord v. Montana State Fund, a great deal of effort has gone into developing legislation to deal with workers' compensation issues.

### **CODE COMMISSIONER REPORT**

Mr. Petesch referred the Council to the Code Commissioner Bill Report 2004 (EXHIBIT #5) and said the Code Commissioner bill is not intended to be a substantive bill, but rather a technical cleanup bill. He explained that the bill is prepared and sent to the impacted entities, which are given a month-long review period. If the entity or agency objects to the change, it is removed from the Code Commissioner bill, since the changes are not intended to be substantive.

REP. MOOD asked Mr. Petesch how the sections of law in need of these technical changes are identified. Mr. Petesch said many of the sections are identified when compiling the annotations, when they are being indexed, or by the Courts or public comment.

### **LEGISLATIVE BRANCH COMPUTER SYSTEM PLAN - 2007 BIENNIUM**

**Hank Trenk, Director, Office of Legislative Information Technology,** provided copies of the Legislative Branch Computer System 2007 Biennium Plan (EXHIBIT #6) and the 2004 Montana Legislator Computer Use Survey Results (EXHIBIT #7). He reminded the Legislative Council that the Computer System Planning Council (CSPC) had provided an outline of the 2007 proposed plan to the Council in June, along with a preliminary budget. He said the documents he provided at this meeting are the final versions and reviewed each with the Legislative Council.

SEN. COCCHIARELLA asked Mr. Trenk to review the status of the laptop computers for legislators pilot project scheduled for the 2007 legislative session. Mr. Trenk said the original plan called for purchasing new laptops but that the CSPC decided to use laptops already in use. The CSPC felt that, as those laptops were phased out, some could be saved and used for the pilot project. Mr. Trenk clarified that costs for connections, support costs, and personnel support costs remain in the budget and that only the purchase price for the laptops was removed from the budget.

In response to a question from SEN. COCCHIARELLA, Mr. Trenk said that the proposal for state e-mail accounts for legislators had been removed from the plan, mainly due to concerns about privacy. Ms. Menzies said the Computer Use Survey completed by legislators indicated there didn't seem to be a strong demand for that service.

REP. GILLAN asked what type of e-mail service would have been available. Mr. Trenk said e-mail service is already available to legislators using state-owned desktop computers. A legislator providing his/her own computer would have the choice of either a pass-through account or an actual state e-mail account:

- A pass-through account creates a standardized address, similar to what state employees have. All e-mail would pass through the state's email server and would be forwarded to the legislator's e-mail box at his/her home e-mail account.

- An actual state e-mail account could only be accessed through the state e-mail server. The account could be accessed from the legislators' homes, providing they had internet service.

Mr. Trenk said the Department of Administration (DOA) operates the e-mail service for the entire state government and would provide the pass-through option at no charge. The state account option would cost approximately \$5-\$6 per month per legislator.

Mr. Trenk also pointed out that the budget has decreased by over \$1 million over the last several years. To make that budget work, the pc replacements cycle was deferred. The proposed budget restarts that cycle, which amounts to about \$600,000, and that is why there is an increase over the current budget.

SEN. CROMLEY asked who collects the money for the connection fees. Mr. Trenk said the Department of Administration collects \$72.60 per connection, per month.

REP. GILLAN asked about the possibility of wireless service for use during the 2005 session. Mr. Trenk said he wasn't sure of the cost and LSD is currently working with the DOA to determine if that can be done. REP. GILLAN encouraged making that service available.

REP. GILLAN asked if any of the laptops scheduled to be used in the 2007 pilot project would be available for use in 2005. Mr. Trenk said they would not be available for 2005. REP. GILLAN asked why there would be both wireless and dial-up accounts offered in the pilot project. Mr. Trenk said the wireless service would be offered in the Capitol only, making dial-up service necessary if the legislator took the laptop out of the building.

REP. MOOD said the \$72.60 fee per connection seemed expensive and that he had seen it advertised for less, and asked why the discrepancy. Mr. Trenk said a lot more, such as software, is included into the service than just the connection fee.

REP. GILLAN asked if the State has considered negotiating with one of the software companies to allow employees or legislators to purchase computers at a discounted price. Mr. Trenk said Dell does offer a discount to state employees. REP. GILLAN said that legislators need to be made aware that this is available to them because it might encourage them to bring their own computers to session. This would decrease the burden and expense to the State to provide this service. Mr. Trenk said he would investigate this. He added that information on what computer services will be provided during the 2005 session will be sent to all legislators. REP. GILLAN asked to have information included on what the requirements will be for access to high-speed internet.

REP. GOLIE **moved** to adopt the Computer System Planning Council 2007 Biennium Plan and Budget. There was not a quorum present so no action was taken.

SEN. COCCHIARELLA commented that many legislators, including herself, do not own a computer and that having some basic guidelines for purchasing the right type of computer would be very helpful to legislators. Mr. Trenk said very basic information could be provided, but that determining the type of computer to be purchased is a very personal decision and that he was hesitant to put out a standard recommendation.

## **LEGISLATIVE SERVICES DIVISION 2007 BIENNIUM OPERATING BUDGET**

### **Program 20 - Legislative Services Division -- EXHIBIT #8**

Ms. Menzies reviewed the 2005 biennium appropriations and compared the 2007 biennium appropriations. She noted that the increase in the budget includes:

- the audio minutes expansion for the 2007 session;
- a new proposal for contracted services for development and implementation of disaster recovery and security plans; and
- reinstating the computer replacement cycle.

REP. GILLAN asked if the disaster recovery and security plan is for the entire state government or just for the Legislative Branch computers. Ms. Menzies said it would cover only the Legislative Branch.

### **Program 21 - Interim Committees and Activities -- EXHIBIT #8**

Ms. Menzies said the Council had given preliminary approval to this budget at the June meeting and reviewed the details of the budget. She said the budget includes the additional meeting day for interim committees and three new proposals for funding: Pacific Northwest Economic Region (PNWER) dues and expenses, legislator participation in the Council of State Governments (CSG) and National Conference of State Legislatures (NCSL), and legislator participation in the Legislative Council on River Governance (LCRG). Ms. Menzies noted that the contingency account balance has been reduced from \$100,000 to \$50,000 in order to help fund these additional programs, but that she was confident the \$50,000 was sufficient to fund any unexpected requests in the next interim.

SEN. TESTER commented that \$1844 per member per meeting for PNWER participation seemed excessive. Ms. Menzies said the meetings are four-day meetings and that the funding could be adjusted, including cost-sharing by the legislators.

REP. MOOD asked Ms. Menzies if the legislators appointed to these councils attend the meetings and actively participate, and if she thought participation would increase if additional funding was available. Ms. Menzies said the lack of financial support has been a deterrent to participation. She said some members have paid their own way, some have sought funding from the House and Senate minority and majority travel budgets, and that some obtain scholarships, tuition waivers, or registration waivers. Interest groups offer assistance as well. For example, CSG offers a lot of support for legislators to attend programs. Ms. Menzies said she did not have accurate numbers on who attends the meetings.

REP. GILLAN asked if the proposed budget included salary. Ms. Menzies said it did and that statutorily, a legislator is entitled to collect salary for the time spent attending these programs. She noted that some legislators elect to waive their salary but that decision is strictly up to the legislator. Mr. Petesch said current statute provides that a legislator is entitled to salary for each day engaged in authorized legislative business. The statute could be amended to provide that they only get salary for statutory or interim committees and that salary may not be claimed for attendance at regional types of meetings, but under current statute, salary must be paid.



SEN. TESTER was of the opinion that not all programs are equal and that perhaps more thought should be put into what programs will be funded and authorized for participation.

SEN. COCCHIARELLA said it is getting more difficult to recruit citizens to run for public office in Montana because of the sacrifice to family and income involved. SEN. COCCHIARELLA stated she advocated leaving the proposals as written and said efforts should be made to stretch the funding as far as possible. Ms. Menzies said the salaries associated with this proposal are relatively small and that the heavy ticket items are the travel expenses.

SEN. COCCHIARELLA **moved to adopt** the LSD Program 20 (Legislative Services Division) budget proposal. The **motion passed** unanimously on a voice vote.

SEN. COCCHIARELLA **moved to adopt** the LSD Program 21 (Interim Committees and Activities) budget proposal. The **motion passed** unanimously on a voice vote.

SEN. COCCHIARELLA **moved to adopt** the Legislative Branch Computer System Plan and Budget proposal. The **motion passed** unanimously on a voice vote.

### **PROPOSED TEMPORARY AND SEASONAL EMPLOYEE PAY MATRIX**

Ms. Menzies explained that the temporary and seasonal positions are classified and paid based on the Legislative Branch classification and pay plan. When the Branch entry and market pay are adjusted, this matrix will be adjusted as well (EXHIBIT #9). Ms. Menzies said the matrix was used in the 2003 session. Because the matrix is based on the Legislative Branch pay plan for permanent staff, it will not be necessary to approve it for future sessions if formally adopted by the Council today. Ms. Menzies also suggested that the Council consider allowing the session employees to receive the .25 per hour pay increase that state employees will receive in January 2005.

REP. GILLAN asked how many employees are hired for session and what level most of them fall in. Ms. Menzies said it is her understanding that approximately 100 employees are hired and that most are clustered between Levels B and F.

REP. GILLAN asked how the issue of compensatory time is handled for a temporary employee. Ms. Menzies said it can be taken at the end of session or cashed out. **Karen Berger, Financial Services Manager, LSD,** clarified that most of the people who are in those compensatory time earning areas are not terminated, such as the House Clerk and the two Sargent-at-Arms.

REP. GOLIE asked if the House Clerk and the Sergeant-at-Arms are considered permanent employees and work all through the biennium. Ms. Menzies said they stay on the payroll during the interim because of the interim duties that they perform. REP. GOLIE asked if they have access to benefits, such as the health insurance. Ms. Menzies said they do not.

SEN. COCCHIARELLA **moved to adopt** the seasonal employee pay matrix, as presented. The **motion passed** on a unanimous voice vote.

## **PROPOSED PRICES FOR 2005 SESSION PROCEEDINGS**

Ms. Menzies, on behalf of Karen Kueffler, Supervisor, Legislative Printing and Distribution Shop, presented the proposed session proceedings prices (EXHIBIT #10). Ms. Menzies said Ms. Kueffler is a phenomenal Branch employee who does an excellent job of saving money for the State. Ms. Menzies asked the Council to also review a proposed format for ordering sets of proceedings on page 2 of EXHIBIT #10, saying it would be a savings to the State to offer this service to subscribers.

SEN. COCCHIARELLA **moved to adopt** the proposed session proceedings prices. The **motion passed** on a unanimous voice vote.

## **LC 0067 -- TO CLARIFY THAT LEGISLATORS-ELECT ARE ENTITLED TO COMPENSATION FOR PRESESSION EXPENSES**

Ms. Menzies said LC 0067 (EXHIBIT #11) is truly a housekeeping bill, has an immediate effective date and it will apply retroactively to November 2004 pre-session activities.

SEN. COCCHIARELLA **moved** to authorize preintroduction of LC 0067. The motion **passed** on a unanimous voice vote. REP. WANZENRIED will sponsor LC 0067.

## **LC 0068 -- SIMPLIFYING PAYMENT OF WAGES TO PAGES**

Ms. Menzies said this proposal was the idea of Karen Berger, Financial Services Manager, LSD, who is responsible for the hiring and termination of the 290 session pages. Ms. Menzies explained the procedural changes in LC 0068 (EXHIBIT #12).

REP. GOLIE asked what constitutes a "day" for a session page. Ms. Menzies said it is the practice of the House and Senate staff who supervise the pages to attempt to keep the hours worked in a single day under eight. Pages will receive overtime pay if they work more than forty hours in their week but overtime is avoided, if at all possible.

SEN. COCCHIARELLA said she is concerned that the pages not be taken advantage of and that it be known that the Council is not endorsing a reduction in the number of pages by passing this legislation. SEN. THOMAS responded that some of the most memorable times are the long days and evenings when the House and Senate are debating controversial issues.

REP. GILLAN asked if calling the pay a "civics training fee" has an impact on social security or taxes. Ms. Menzies said since it is not a wage and would not be called a wage, it would not have an impact.

SEN. COCCHIARELLA said she is also concerned about workers' compensation issues. Ms. Menzies said it is her preference to have the pages covered by workers' compensation and that issue remains to be settled. SEN. THOMAS pointed out that the language of LC 0068 states that the pages are employees, so they would have to be covered by workers' compensation.

Ms. Menzies said the subject of tipping has also been discussed and that Marilyn Miller, House Clerk, supports the idea of discontinuing tipping of pages.

SEN. THOMAS **moved** to adopt LC 0068 and said that any needed changes could be made during the legislative process. The motion **passed** on a unanimous voice vote. SEN. COCCHIARELLA agreed to sponsor LC 0068.

### **LC 0069 -- REVISING THE DEFINITION OF SHORT-TERM WORKERS**

Ms. Menzies reviewed the current definition of short-term worker and then explained that the changes in LC 0069 (EXHIBIT #13) would expand the current amount of time a short-term worker can work for the state in a 12-month period from 90 days to six months.

SEN. THOMAS asked if this bill would preclude current state employees from moving to the Capitol for the legislative session and if the employees would continue to receive their usual benefits. Ms. Menzies said if the individual takes annual leave or uses compensatory time, the individual would continue to receive the same benefits received as a permanent worker. If the employee took leave without pay to work the legislative session, the employee would not.

REP. GOLIE asked if LC 0069 would preclude a retired public employee from working the session. Ms. Menzies said it would not; it only defines that the session employees are short-term and not eligible for other benefits. It does not address retirement. If a retiree comes back to work at a legislative session, that individual could work up to a certain number of hours without first, becoming an active member; or second, having their retirement benefit reduced. The limit is 960 hours. Ms. Berger said the employee also has the choice to reactivate for that period of time.

A **motion was made to adopt** LC 0069. The **motion passed** on a unanimous voice vote. REP. GOLIE will sponsor LC 0069.

### **LC 0070 -- ESTABLISHING A LEGISLATIVE BRANCH RESERVE ACCOUNT FOR INFORMATION TECHNOLOGY EQUIPMENT AND SYSTEMS REPLACEMENT**

Ms. Menzies explained that the Computer System Planning Council is concerned about funding large-scale IT projects in the future. Voting systems and software purchases, for example, are quite expensive and the Planning Council wants to explore the possibility of creating a reserve fund in anticipation of those types of expenditures. LC 0070 creates a Legislative Branch reserve account in the state special revenue fund type. Ms. Menzies explained the details of LC 0070 (EXHIBIT #14).

REP. GOLIE asked if the Planning Council had considered placing a cap on the reserve account. Ms. Menzies said the 30% reversion would act as a type of cap and that statutorily-required approving authorities would also act as a cap to keep the expenditures reasonable.

REP. GOLIE asked if the reserve account would be subject to being taken by an appropriation. Mr. Petesch stated that the reserve fund could not be cleansed through an appropriations bill, but that the Legislature could take it through specific legislation designed to take the balance for a different purpose.

SEN. COCCHIARELLA **moved** to approve LC 0070 for preintroduction. The **motion passed** on a 7-1 voice vote, with REP. BROWN voting no. Sponsorship of LC 0070 was delayed until the November 16, 2004, meeting.

### **LC 0071 -- INFORMATION TECHNOLOGY SYSTEMS IMPACTS ON LEGISLATIVE BRANCH**

Ms. Menzies explained that when IT systems are upgraded in the Executive Branch, the changes may affect the functioning of Legislative Branch IT systems. This requires the Legislative Branch to rewrite portions of its IT systems, which is both expensive and time-consuming. Ms. Menzies explained the suggested amendments contained in LC 0071 (EXHIBIT #15).

SEN. COCCHIARELLA **moved** to approve LC 0071 for preintroduction. The **motion passed** on a unanimous voice vote. Sponsorship of LC 0071 was deferred to November 16, 2004, meeting.

### **OTHER BUSINESS**

REP. GILLAN asked the members to make a decision on when to convene the 2004 party caucuses on November 17, 2004 (EXHIBIT #16). REP. WANZENRIED **moved** to begin the caucuses at 8:00 a.m. REP. LASZLOFFY **made a substitute motion** to begin the caucuses at 9:00 a.m. The **substitute motion passed** on a 5-3 voice vote, with REP. GILLAN, REP. GOLIE, and REP. WANZENRIED voting no.

### **Legislative Rules Workshop -- EXHIBIT #17**

Ms. Menzies referred the Council to the Legislative Rules Workshop handout (EXHIBIT #17) and said the workshop will provide rules training for new and returning legislators. Ms. Menzies reviewed the proposed agenda, presenters, and topics to be covered.

### **New Legislator Orientation -- EXHIBIT #18**

Ms. Menzies reported that the orientation would have a navigational theme and that the Master of Ceremonies will be SEN. STONINGTON. Ms. Menzies also noted that:

- discrimination prevention will be a training topic;
- Dennis Weidman, a Carroll College professor, will discuss legislative powers;
- Executive Branch agencies have been invited to participate in an agency fair; and
- there will be a new break out session called "Lessons Learned" or "Tips and Tricks for Surviving Your First Session", which will be presented by SEN. WHEAT and SEN. WAGMAN.

### **TVMT Status Report**

Ms. Menzies reminded the Council that Helena Civic Television (HCTV), the nonprofit organization under contract with the LSD to provide government broadcasting services through TVMT, had applied for a federal grant to allow statewide broadcasting of TVMT programming. She reported that the federal grant money, if awarded to HCTV, would not be available in time to use for the 2005 session. However, HCTV is negotiating with Bresnan Communications to

provide broadcasting over the Big Sky Channel, which is available in Billings, Butte, Missoula, Great Falls, Kalispell, Havre, Helena, and Bozeman. This televising will have a fee associated with it, and there may have to be some fund raising done. Another development being explored is that Bresnan offers video on demand where, for a small price, the subscriber can pay the fee and observe the legislative process. HCTV is also working with Vision Net to offer TVMT programming to rural customers through broadband television.

### **Educate the Public on Role of the Legislature**

Ms. Menzies reported that LSD will be conducting an interactive video pilot project as approved by the Council in January 2004. One committee will be selected and up to three meetings of that committee will be televised. Portable equipment will be used, and LSD will provide training to that committee on how to conduct a remote hearing.

Ms. Menzies reported that approximately 25 Legislators agreed to participate in Back-To-School Week, which provides an opportunity for lawmakers to meet with students in the classroom to explain what it means to be a legislator.

### **Legislative Intern Program -- EXHIBIT #19**

Ms. Menzies explained how the intern program functions and noted that the level of participation has been very low in the past several legislative sessions. She thought this was likely due to the lack of a stipend.

Ms. Menzies also reported that the Montana Bar Association has offered to sponsor a Law School For Legislators the first week of the legislative session. She said she would have additional information for the Council at the November meeting.

### **PUBLIC COMMENT**

No public comment was given.

### **SJR 32 Subcommittee On Medical Malpractice Liability Insurance Proposed Legislation**

REP. GILLAN asked for discussion on how to best structure the next day's meeting to address the Subcommittee's proposed legislation.

REP. GOLIE said, as Chair of the SJR 32 Subcommittee, he would like to begin the meeting by briefly presenting the findings and recommendations of the Subcommittee. He said these are complicated issues and being informed will be critical to being able to make educated decisions. He strongly urged the Legislative Council members to read the Subcommittee's final report and to study the bills.

SEN. THOMAS asked Greg Petesch to advise the Council on how best to proceed in a timely and efficient manner, while still allowing adequate public comment. Mr. Petesch said the only issue that the Council must decide is either acceptance or rejection of the report of the Subcommittee. The Council may ask for comment on the Subcommittee report, which may include any or all of the components.

SEN. THOMAS suggested ordering the meeting as follows:

- presentation of the Subcommittee's final report;
- move to adopt the Subcommittee report;
- allow time for public comment;
- allow time for Legislative Council questions and discussion; and
- final disposition of the motion to adopt the Final Report.

SEN. THOMAS said if the final report is adopted and no bills are segregated, sponsors for the bills could be assigned at that time.

SEN. COCCHIARELLA said the focus must be on whether or not the Council adopts the Subcommittee report. Comments should be limited to material covered in the report and should not be allowed on individual bills. She did not support the idea of having a motion to adopt the report made before public comment and said she would rather have the motion made after public comment. SEN. THOMAS said there needed to be a motion on the floor in order to debate the report.

REP. LASZLOFFY said SEN. THOMAS was technically correct in his statement that there must be a motion on the floor in order to debate the issue between the members of the Council.

SEN. THOMAS asked Ms. Menzies to prepare a comment sheet for each bill draft in order to make notes as each is being discussed.

SEN. COCCHIARELLA asked Ms. Menzies to poll staff on how the process of reviewing agency legislation went this interim. Ms. Menzies agreed to do that.

### **ADJOURNMENT**

With no further business before the Council, REP. GILLAN recessed the Council until Friday, September 17, 2004.

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