

**Council Senate Members**

GREGORY BARKUS  
VICKI COCCHIARELLA  
MIKE COONEY  
KELLY GEBHARDT  
DAN HARRINGTON  
COREY STAPLETON



**Council House Members**

DEBBY BARRETT  
BOB BERGREN  
MARGARETT CAMPBELL  
DENNIS HIMMELBERGER  
DAVE MCALPIN  
SCOTT SALES

## Montana Legislative Council

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# MINUTES

June 21, 2007

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.**

Please note: These minutes provide abbreviated information about committee discussion, public testimony, action taken, and other activities. The minutes are accompanied by an audio recording. For each action listed, the minutes indicate the approximate amount of time in hours, minutes, and seconds that has elapsed since the start of the meeting. This time may be used to locate the activity on the audio recording.

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To view the minutes, locate the meeting date and click on minutes. To hear the audio recording, click on the Real Player icon. Note: You must have Real Player to listen to the audio recording.

### **COMMITTEE MEMBERS PRESENT**

SEN. GREGORY BARKUS  
SEN. VICKI COCCHIARELLA  
SEN. MIKE COONEY  
SEN. KELLY GEBHARDT  
SEN. DAN HARRINGTON  
SEN. COREY STAPLETON

REP. DEBBY BARRETT  
REP. BOB BERGREN

REP. MARGARETT CAMPBELL  
REP. DENNIS HIMMELBERGER  
REP. DAVE MCALPIN  
REP. SCOTT SALES

### **STAFF PRESENT**

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

### **AGENDA & VISITORS' LIST**

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

### **COMMITTEE ACTION**

- The Legislative Council:
- elected REP. BERGREN Chair of Legislative Council for the 2007-08 interim;
  - elected REP. HIMMELBERGER Vice Chair of Legislative Council for the 2007-08 interim;
  - approved the May 15, 2007, meeting minutes as written;
  - approved the operating budget for FY 2008 and FY 2009, Programs 20 and 21, including a training budget program transfer;
  - approved a program transfer approval for Legislative Branch retirement pay;
  - approved an operations plan change in FY 2007 for workers' compensations retention return refund;
  - approved transferring the remaining FY 2005 Feed Bill balance to the IT Reserve Account;
  - approved HB 13 salary and longevity increases for the Executive Director of LSD;
  - approved the 2007 session law prices;
  - approved House and Senate member appointments to NCSL and CSG; and
  - authorized Ms. Fox to create a study plan and suggestions for the mental health study.

### **TAPE 1 - SIDE A**

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

00:02 SEN. COCCHIARELLA called the meeting to order at 8:34 a.m. The secretary noted the roll, all members were present (ATTACHMENT #3).

#### **NOMINATION AND ELECTION OF OFFICERS**

REP. HIMMELBERGER nominated REP. BERGREN as chair. SEN. HARRINGTON moved to elect REP. BERGREN as Council Chair by affirmation. The **motion passed** on a unanimous voice vote.

REP. BERGREN nominated REP. HIMMELBERGER as vice chair. SEN. HARRINGTON moved to elect REP. HIMMELBERGER by affirmation. The **motion passed** on a unanimous voice vote.

## APPROVAL OF MINUTES

00:04:05 SEN. COONEY moved to adopt the May 15, 2007, meeting minutes, as written. The **motion passed** on a unanimous voice vote.

## INTRODUCTION OF MARY FAIRCHILD, NCSL, & APPOINTMENTS TO INTERSTATE COMMITTEES

00:04:37 **Mary Fairchild, National Conference of State Legislatures (NCSL)**, introduced herself as the Montana's NCSL liaison. She gave a brief overview of the working structure of NCSL and the benefits and services provided by NCSL.

**Susan Fox, Executive Director, Legislative Services Division (LSD)**, reviewed the House and Senate 2007-08 appointments to NCSL and the Council of State Governments (CSG) (EXHIBIT #1).

SEN. COONEY said that he noticed that there were several vacant appointments and asked how they would be filled. Ms. Fox said that both majority and minority members could be appointed and agreed that the vacancies should be filled. REP. BERGREN also agreed and asked SEN. STAPLETON to comment on how to proceed with minority appointments. SEN. STAPLETON said that a list would be available after a short consultation with SEN. BARKUS. The Council agreed to postpone action until later in the meeting.

## BUDGET ITEMS

00:10:42 Ms. Fox reviewed the Program 20 (Legislative Services Division) and Program 21 (Interim Committees and Activities) budgets (EXHIBIT #2). She noted that the budget includes four new positions approved by the 2007 Legislature. Ms. Fox said that Karen Berger, Financial Services Manager, would provide additional information. **Karen Berger, Financial Services Manager, LSD**, explained the budget action items (EXHIBIT #3) and suggested that each item be discussed and approved separately.

**Action Item 1. - Approval of operating budget for FY 2008 and FY 2009, Programs 20 and 21, including training budget program transfer.** Ms. Berger briefly reviewed the budget items. REP. CAMPBELL **moved** that Legislative Council approve the operating budget for FY 2008 and FY 2009, Programs 20 and 21, including the training budget program transfer. REP. HIMMELBERGER asked for clarification that the budget proposal does not include Legislative Audit Division (LAD) staff training funds. Ms. Berger said that LAD training funds are not included in this proposal. REP. MCALPIN asked if the reason for the transfer of training funds was for control or for efficiency's sake. Ms. Berger said it would do both and would allow each division to record its appropriate expenditures more accurately. REP. MCALPIN asked if it would affect administrative costs. Ms. Berger said no. REP. HIMMELBERGER asked Ms. Berger how the transfer amount was determined. Ms. Berger said that she reviewed the past few interims to determine historical costs and that she also consulted with the directors of the divisions. The **motion passed** on an 11 - 1 voice vote, SEN. SALES voted no.

00:19:23

**Action Item 2. - Program transfer approval for retirement pay.** Ms. Berger referred to EXHIBIT #2, bottom of Program 20, under Statutory Appropriations. She explained that it is anticipated that a high number of LSD, LFD, and LAD staff members, as well as legislators will be retiring in the next two years and that this provision would expedite that process. It amounts to granting authority to the Executive Director to make transfers as needed without coming to Legislative Council for each instance, for the 2009 biennium only. SEN. COONEY **moved** to approve Executive Director to access the Legislative Branch Retirement Termination Fund Account. REP. BARRETT asked if the Legislative Finance Committee (LFC) would be informed prior to a transfer actually being made. Ms. Berger said that there is no requirement to inform LFC but that the Legislative Fiscal Division would likely keep the Committee updated on any requests. She said that the three Legislative Branch Division directors would work out the exact details on how to deal with the fund. REP. HIMMELBERGER asked Ms. Berger to explain the provisions of the Retirement Termination Reserve Account. Ms. Berger said account is intended to cover expenditures for payouts of vacation, annual leave, sick leave, and compensatory time accrued by staff members, which are expected to be excessive expenses in the next five years. She said that 25% - 30% of current staff members are anticipated to retire in that time frame and that many of them have very large leave accrual balances. The intent of this fund was to be able to cover those balances without having to ask for additional funding in each biennium. REP. HIMMELBERGER asked for clarification that the transfer would be for the current biennium only. Ms. Berger said yes. The **motion passed** on an 11-1 voice vote, REP. BARRETT voted no.

00:24:18

**Action Item 3 - Operations plan change in FY 2007 for Workers' Compensation Retention Return Fund.** Ms. Berger explained that the Department of Administration (DOA) has staff working to reduce workers' compensation costs within state government. She has received notice that the Legislative Branch will be receiving an \$18,000 refund but that the accounting that is required to process the refund requires an operating plan approval from Legislative Council because \$3,567 of the refund must be returned to DOA for administrative costs. REP. CAMPBELL **moved** to approve the operation plan change for FY 2007 regarding workers' compensation refunds. SEN. COCCHIARELLA asked if the \$3,567 is for administrative costs only and did not include safety issues. Ms. Fox said that safety and return to work issues will be addressed in the following biennium. The **motion passed** on a unanimous voice vote.

00:28:40

**Action Item 4 - transfer the remaining 2005 Feed Bill balance to the Information Technology Reserve Account.** Ms. Berger referred the Council to EXHIBIT #2, Program 20 budget, lower right corner, and explained the Branch IT Reserve Account. Ms. Berger explained that the first objective of the Account is to replace voting boards but that Council approval is needed to transfer the funding sources (carry forward appropriations and feed bill reversions) into the Reserve. SEN. COONEY **moved** to approve the transfer of the 2005 Feed Bill balance to the IT Reserve Account. SEN. BARKUS asked how much control an agency has over its reverting funds. Ms. Fox said that each agency has 30% carryforward authority but that the Legislative Branch is unique in having the IT

Reserve Account. Ms. Berger said carryforward appropriations are only available for General Appropriations Act appropriations. SEN. BARKUS asked if an agency can make its own appropriations. Ms. Berger said carryforward appropriations can only be established following the reversion of the initial appropriated amount and that the carryforward is then available to the agency for two years. If unused, it reverts back to the general fund. The use of those funds must be limited to "normal agency operational costs" or for one-time only expenditures.

Greg Petesch, Code Commissioner, LSD, said that carryforwards were created as an incentive to encourage agencies to not spend all of their appropriated funds. This process is statutorily restricted and carryforward balances have to meet certain requirements in order to be spent.

REP. HIMMELBERGER asked what the current balance of the IT Reserve Account. Ms. Berger said that the balance is approximately \$530,000.

SEN. COCCHIARELLA asked if there is a cost estimate for upgrading the voting boards. Ms. Berger said that the initial cost for the voting system, not including the actual voting boards, is estimated to be about \$1.2 million. The **motion passed** on an 11-1 voice vote, REP. BARRETT voted no.

00:39:44 **Action Item 5 - Approval of Executive Director Salary and Longevity increases.** Ms. Berger explained that this measure would ensure that the Executive Director receives the same salary and longevity increases as other LSD employees will receive as a result of House Bill 13. SEN. COONEY **moved** to approve to the request. **TAPE 1 - SIDE B** The **motion passed** on a unanimous voice vote.

00:42:45 **Action Item 6 - 2007 session law price.** SEN. COONEY **moved** to approve the recommended price of \$95 per set. SEN. BARKUS asked if session laws are available on CD-ROM. Ms. Fox said that session law is not available on CD-ROM. The **motion passed** on a unanimous voice vote.

00:45:10 In response to a question from REP. HIMMELBERGER, Ms. Berger reported that the five-day special session cost \$276,000. She discussed remaining expenses to be paid from this biennium's and next biennium's budgets and said that a budget shortfall is not likely, but that she would keep Council members updated on budget issues.

SEN. COCCHIARELLA asked what the process is and how long it takes when a legislator purchases (retirement) time. She also asked how the Public Employees Retirement System (PERS) notifies LSD. Ms. Berger said that DOA sends a bill to LSD and that it takes approximately one to two weeks for LSD to process the request and pay the bill.

SEN. BARKUS asked if the Feed Bill is assessed for the entire amount if a past legislator purchases time. Ms. Berger said yes.

REP. HIMMELBERGER asked how much funding in the Feed Bill is available to the Speaker and President as discretionary funding. Ms. Berger said that the Feed Bill included \$10,000 for the House and Senate majority leadership and \$5,000 for House and Senate minority leadership. REP. HIMMELBERGER asked what types of expenditures have been made to date. Ms. Berger said that she has a list but most of the expenditures have been travel costs.

00:52:49 SEN. COONEY asked to finalize the NCSL and CSG appointments. REP. BERGREN said that a motion was needed approve the nominations.

REP. MCALPIN asked Ms. Fairchild how many votes are allowed per state. Ms. Fairchild said that each state gets one vote, regardless of how many members it has and that the member must be present.

REP. HIMMELBERGER asked how travel costs to NCSL events are covered. Ms. Fairchild said that travel costs are not reimbursed by NCSL but that it does award stipends under certain circumstances. Ms. Berger said that the 2007 Legislature funded participation in NCSL and CSG for this biennium, so there is some funding available for travel and other related expenses.

In response to a questions from REP. HIMMELBERGER on how funding will be allocated among legislators, Ms. Fox said that she would like Council input on that issue because currently, there are no guidelines in place.

SEN. HARRINGTON asked how much funding is available for expenses. Ms. Berger said that there is approximately \$29,000 for NCSL and that the amount is expected to cover the cost of eight people attending three functions each year of the biennium. REP. MCALPIN asked if staff travels under a separate budget. Ms. Fox said yes.

Ms. Fox read the amended list of NCSL and CSG appointments. SEN. COONEY **moved** to approve the appointments. The **motion passed** on a unanimous voice vote.

#### **APPROVAL OF LEGISLATIVE COUNCIL WORK PLAN AND MEETING DATES**

01:07:41 Ms. Fox reviewed the suggested work plan for the 2007-2008 interim (EXHIBIT #4). She asked for Council input regarding the strategic planning session and pointed out that the Kumamoto Delegation will be in Helena on August 6, 2007.

REP. HIMMELBERGER reported on the previous strategic planning meeting held in the fall of 2005. He said that it was very helpful and allowed the Council to set and flesh out its priorities.

SEN. COCCHIARELLA suggested an off-site retreat location for the planning session, such as the Yellow Bay Research Station. She said that past Councils have gone on retreats as part of the strategic planning session and that an off-site meeting allows Council members to get to know each other better and to interact in an informal setting. She said that this type of interaction is crucial, considering the effects of term limits.

REP. SALES concurred with SEN. COCCHIARELLA's suggestion of an off-site retreat. REP. BERGREN asked that planning for a Council retreat progress on a consensus basis. Ms. Fox said that she would begin contacting potential meeting sites and that the September meeting date could include both a regular Council meeting and the strategic planning session. She said that she would keep Council members updated on the planning process and that every effort would be made to make the most efficient use of state resources.

REP. BERGREN asked the Council members to let Ms. Fox know of any conflicts in September. After a brief discussion, it was agreed that the last week in September was the most convenient time for members and staff.

01:18:10 **Legislative Rules.** Ms. Fox said that the issue of legislative rules was raised by SEN. COCCHIARELLA and suggested that it be an agenda item at the strategic planning session. SEN. GEBHARDT agreed that the planning session would be the appropriate time to address the rules because it would give the members an opportunity to prepare themselves. Ms. Fox said that she would develop a questionnaire and survey Council members in advance. She said that she would discuss this with the Code Commissioner. REP. BERGREN said that legislative rules will be an agenda item for the retreat.

01:19:46 **Rules, Procedures, and Guidelines for Legislative Interim Committees.** Ms. Fox said that there may some changes that need to be made and suggested that this issue also be addressed at the strategic planning meeting. She said that she would poll the other interim committees to see what changes are recommended.

01:20:39 **\$200,000 Appropriation of Interim Study of Mental Health.** Ms. Fox referred members to a decision points worksheet (EXHIBIT #5) to review the issue of the mental health study. **TAPE 2 - SIDE A** Ms. Fox discussed the options available. REP. CAMPBELL asked Ms. Fox what action she would recommend. Ms. Fox discussed the options listed in EXHIBIT #5 and said that Sen. Weinberg's intent was that the funding would be used for a Request for Proposal (RFP) to conduct a full-blown study (Option A). SEN. BARKUS asked if the \$200,000 appropriation in HB 2 was tied Sen. Weinberg's bill or a separate decision. Ms. Fox said that the full Senate Finance and Claims Committee approved the funding with the idea that it would complement SJR 27. SEN. BARKUS asked for clarification that the funding did not have contingent voidness on passage of another act. Ms. Fox said that was correct.

REP. HIMMELBERGER said that he was reluctant to support Option A and would suggest either Option B or Option C.

SEN. COCCHIARELLA asked what other mental health studies have been assigned to other interim committees. Ms. Fox referred to page 2 of EXHIBIT #5 and discussed SJR 24, HJR 26, and HJR 50. SEN. COCCHIARELLA discussed the crisis situation in Missoula regarding mental health services and said that the problem exists statewide. She said that this problem extends well beyond criminal-related issues, affects ordinary citizens, and that quick action is warranted. She recommended Option A or something similar.

SEN. COONEY recalled that Sen. Weinberg was very clear that an RFP was necessary to address this issue and that, while he has great faith in the legislative process, this is a much bigger and more complicated issue than an interim committee is able to address. He also recommended Option A.

SEN. BARKUS disagreed, saying that the intent of the Legislature is, because of its failure to pass SJR 27, that this study should not progress. REP. CAMPBELL said that she supported Option A and agreed that the lack of mental health services has reached crisis level. She said that mental health is an intricate and complex issue and that until the legislative body has a better understanding of it, nothing will be done.

SEN. STAPLETON recommended approving either Option B or Option C and asked if the Council has the authority to assign the appropriation to another interim committee. REP. BERGREN said that the Council does have the authority.

REP. MCALPIN stated that doing nothing is not an option and asked if an RFP could include an analysis of what is working in other states and what is lacking in Montana. REP. BARRETT agreed that this is a huge issue and that the burden currently falls on the counties, cities, and local hospitals. She asked Ms. Fox to explain the TAC report and what the next step would be in that process. Ms. Fox said that the TAC report came about after the fall of the Managed Care Mental Health Contract. An outside source was asked to evaluate the public mental health system and to make recommendations. One of the findings was that Montana does not have a resource map of all of the different resources that are available through the cities, counties, and state. Creating a resource map would help identify where the gaps in services are, which would be very beneficial when creating a continuum of care. REP. BARRETT asked if those steps could be taken in Option A. Ms. Fox said yes and is what her approach would be if she was instructed to go forward with the study.

SEN. HARRINGTON agreed that time is a critical factor and supported moving forward with Option A.

REP. HIMMELBERGER asked if the Law and Justice Interim Committee and the Children and Families Interim Committee have other studies assigned to them. Ms. Fox said yes and briefly reviewed each committees' assignments.

SEN. COCCHIARELLA asked to have Ms. Fairchild to discuss any services, ideas, information, or resources that may be available through NCSL to assist with this study. Ms. Fairchild said that it is not unusual for legislatures to contract out for these types of studies and that she would gather specific information on how other states have addressed mental health studies.

REP. BERGREN said that it is very apparent that the system is piecemeal at this time and that no one has an clear understanding of it, which is why Sen. Weinberg wants to conduct this study. The goal is to create a statewide comprehensive public mental health system.



## Public Comment

**Tracy Velasquez, Montana Mental Health Association**, supported Option A and said that having an outside study would provide the best information. She provided several suggestions, such as active recruitment of mental health practitioners, pursuing state and federal grants to apply to the mental health system, to research what other states are doing to address this problem, to maximize federal dollars by combining state and federal programs where possible, and to look at how to integrate the primary care and mental health care systems.

REP. HIMMELBERGER said that he was not prepared to make a decision and would like more time to consider this issue. He asked to postpone action until the September meeting.

- 02:01:38 Ms. Fox passed out copies of SJR 27 (EXHIBIT #6) and the list of the Council's assignment of the interim studies. Ms. Fox said she that she would:
- create a "mini" study plan;
  - work with NCSL on gathering information from other states;
  - look up the information discussed by Ms. Velasquez; and
  - get study plans from the other interim committees to see how or if they could dovetail.

Ms. Fox said all of the information could be combined to develop a proposal that could be discussed at the September meeting.

SEN. COCCHIARELLA **moved** to allow Ms. Fox to proceed with her suggestions and that Legislative Council consider her findings at its September meeting. The **motion passed** 8-4 on a voice vote, SEN. BARKUS, SEN. COONEY, SEN. STAPLETON, and REP. SALES voted no.

## APPOINTMENT TO ADVISORY GROUPS -- COUNCIL MEMBERS

- 02:04:38 **Legislative Management.** Ms. Fox said that traditionally, Legislative Council has appointed a Management Committee to deal with issues that arise between meetings and to administer the Executive Director's performance appraisal. The Committee has been made up of four members, two from each house.

SEN. HARRINGTON **moved** that REP. BERGREN, as Council Chair, make the appointments to the Management Committee. SEN. BARKUS made a **substitute motion** that leadership make the appointments to Management Committee. SEN. COCCHIARELLA said that in the past, Council members simply volunteered to serve on the management committee and she volunteered to serve. She said that the biggest responsibility of the committee is to performing the ED performance appraisal. SEN. STAPLETON said that could be included in SEN. BARKUS' motion. SEN. COCCHIARELLA said that she didn't think a motion was needed and suggested that REP. BERGREN consult with House and Senate leadership before making any appointments. SEN. COONEY asked if the Council Chair and Vice Chair typically serve on the Committee. SEN. COCCHIARELLA could not recall. SEN. COONEY pointed out that the

Chair and Vice Chair are both House members and suggested that if they serve, two senators from the different houses be appointed as the remaining members.

SEN. BARKUS' **substitute motion to have leadership appoint the Management Committee passed** on a 9 - 3 voice vote, SEN. COCCHIARELLA, REP. CAMPBELL, and REP. MCALPIN voted no.

SEN. COONEY appointed SEN. COCCHIARELLA, REP. BERGREN appointed REP. CAMPBELL., REP. SALES appointed REP. HIMMELBERGER, and SEN. STAPLETON appointed SEN. BARKUS.

02:12:56

**Voting Board.** Ms. Fox said that SEN. BRUEGGEMAN asked to participate via teleconference. **Hank Trenk, Director, Office of Legislative Information Technology (OLIT)**, provided background information. He said that the discussion of replacing the House and Senate vote systems dates back several years. At that time, he contacted the vendor from which the current system was purchased and asked for a "ball park" estimate of what the cost would be to replace the systems. The vendor estimated that the cost for just the actual vote system would be approximately \$500,000 for each house. Mr. Trenk said that the major cost in replacing the system lies in the vote display board, which, depending on the graphics used, could cost \$1 to 2 million. Mr. Trenk said that during the 2007 session, he contacted the current vendor again for an updated replacement cost estimate with the following system requirements: that the entire House voting system be replaced, including the two voting boards and that the new voting boards be larger for better visibility and have a tri-color LED display. **TAPE 2 - SIDE B** The new board would display the agenda at all times, except as a vote is being taken. Mr. Trenk said that the Senate display board does not need to be replaced but that the voting system would be replaced because that part of the system is becoming obsolete. He said that the vendor gave an estimation of approximately \$1 million. Mr. Trenk said that it would not be possible to determine the exact cost until:

- a) it is determined what is needed, and
- b) an RFP is completed.

Mr. Trenk said that the RFP can contain several different options and noted that there is only one major vendor for voting systems remaining in business.

REP. MCALPIN asked if a real time application for a voting system is available. Mr. Trenk said that that capability could be built into the new system. SEN. BRUEGGEMAN said that there has been a lot of discussion on what the system requirements should be and agreed that the new system should have a real time application. He said that the new system should also have the capability to display the LAWS page or a similar program that would allow legislators to have a bill's history readily available. He said that as a legislator, it is important to him that he be able to quickly research a bill, view amendments, makes notes, etc.

SEN. BARKUS asked why two display boards are needed in the House Chamber. Mr. Trenk said that the House Chamber is very large and that it is

difficult to see the boards from the back or sides of the room. REP. MCALPIN said that the focus should be the needs of the citizens to see, rather than legislators. He said that he has received very positive feedback from constituents regarding the televising of legislative proceedings through TVMT and that providing a more visible vote board would be expanding citizens' access to information.

SEN. BRUEGGEMAN agreed with REP. MCALPIN's statement regarding TVMT's broadcasting of legislative proceedings and noted that the broadcasting needs to be available to the entire state. He said that as real time applications become more available to legislators and to citizens, the need for large and bulky displays will decrease.

Mr. Trenk said that he would like input from Legislative Council regarding the RFP process. He suggested forming a small committee of legislators, the Chief Clerk of the House, and the Senate Sergeant-at-Arms to work on developing the requirements for the new system and RFP proposal. He suggested setting a November 1, 2007, deadline for letting the RFP out, setting a January or February, 2008, deadline for selecting a vendor, and to plan for the installation of the new system to be completed between July and September of 2008.

SEN. COONEY said, regarding the Senate vote display board, that while it did not need to be replaced, there were glitches with the board that caused problems and frustration in the last session. He asked that those problems be addressed as high priority items before the next legislative session.

SEN. COONEY **moved** to request that RFP process begin. REP. HIMMELBERGER asked if this has to be done in this interim. Mr. Trenk said that the last upgrade to the House system was done in the 1980s and that the current system is obsolete. The replacement parts are used and unreliable and computer compatibility is becoming more of an issue. REP. HIMMELBERGER said that he is concerned that more time should be taken to research and gather information. He also questioned if Mr. Trenk's outline of events could be accomplished in the suggested time frame.

SEN. COCCHIARELLA said that this is not a new issue to Legislative Council and that the RFP process was approved by the previous Legislative Council. She said that Mr. Trenk is before the Council only to ask for additional input from Council members. Mr. Trenk said that is the case.

SEN. COONEY asked to withdraw his motion for the RFP process to begin. Mr. Trenk said that any legislator interested in this issue could serve on the committee and that the committee would regularly report to the Council. He said that SEN. BRUEGGEMAN and Rep. Jones serve on the Computer System Planning Council but that he would like additional members from the legislature to serve.

SEN. BRUEGGEMAN said that the Computer System Planning Council has the responsibility to put this new system forward and that the subcommittee of the

Council would deal with the requirements and process for the RFP. He suggested that legislators be polled to get feedback on what options and services they would like in the new system.

SEN. BARKUS asked that other states be contacted to research what types of vote systems are being used.

REP. BERGREN suggested that he appoint two people from Legislative Council and two interested at-large legislators at a later date to work with the Computer System Planning Council. The Council agreed.

02:47:14 REP. BARRETT asked Greg Petesch, Code Commissioner, to comment on a potential legal issue regarding the mental health study appropriation. She asked if this type of situation has occurred in the past. Mr. Petesch said that a line item appropriation with no specific legislation attached to it has occurred from time to time in the Executive Branch and that while he did not have a concrete example, he said that he assumes that it has occurred in the Legislative Branch as well.

REP. BARRETT asked if Legislative Council has the authority to spend the \$200,000. Mr. Petesch said that Legislative Council has the authority to spend \$200,000 on a mental health study and that so long as the money is spent for that purpose only, the Council is within the parameters of the law.

SEN. BARKUS asked how the money could be spent on the study, since the study was not authorized. Mr. Petesch said that the study was authorized through the item of appropriation. He agreed that this is not the normal procedure but said that it is legal. He said the item of appropriation is restricted to the purpose of a mental health study and the language in HB 2 is clear on that.

REP. BERGREN asked Mr. Petesch if this could be considered "an issue of statewide importance" and the Council's authority regarding that. Mr. Petesch said that if an issue of statewide importance arises during the interim, the Council has statutory authority to expend money appropriated to it to address that issue. He said that these types of situations are usually associated with a crisis, such as the threat to the livestock industry due to the recent outbreak of brucellosis.

#### **LEGISLATIVE SERVICES DIVISION UPDATES AND REPORTS**

02:53:06 **Merit Pay Project.** Ms. Fox explained the history of merit pay. She said that a merit pay program was approved but never funded, with the exception of the Legislative Audit Division (LAD). **TAPE 3 - SIDE A** Ms. Fox said that HB 13, passed in the 2007 session, included funding for merit pay; so while there is the means to award merit pay, there is no process in place to determine how to award it. She said that there are many decisions to be made and that the Division managers are working together to develop a process. Ms. Fox said that the Council would be updated on this issue at future meetings.

SEN. HARRINGTON asked how it was possible that LAD implemented merit pay. Ms. Fox said that she was not sure and that historically, the three divisions of the Legislative Branch have been operated very differently. She said that all three

divisions are now on the same broadband pay plan and that work is underway to create consistency and to minimize the differences between the divisions.

02:59:01 **TVMT Update.** Ms. Fox referenced the state statute dealing with state government broadcasting (5-11-1111, MCA, EXHIBIT #7). She reviewed the events of the last session dealing with funding for TVMT and discussed state procurement provisions and how they apply to this issue. Ms. Fox said that the contract with the current vendor, Helena Civic Television (HCTV), could be renewed under these provisions for the next biennium. She said that there has been a great deal of cooperation among cable and telephone cooperatives to make the program so successful and that there is great support for broadcasting of legislative proceedings from the public. She said that a long-range vision is needed for this program in order to establish it firmly and that it would continue to be an agenda item at future meetings. Ms. Fox said that she would like to see a solid proposal formulated in time for the 2009 Legislature.

03:04:10 **Legislative Space and Booking Rooms Process.** Ms. Fox explained the rationale and reasons for LSD assuming the responsibility for scheduling meeting rooms in the Capitol from DOA. She said that LSD is in the process of developing a process and the necessary forms for the reservation and use of legislative space. Ms. Fox said that the updating of rooms with new technical equipment, such as sound towers, projectors, and screens, made it necessary to take over maintenance and control of legislative space.

REP. BARRETT asked if there is a charge for using a room and if a damage deposit is charged. Ms. Fox said that issue is being considered and that currently, LSD has no statutory authority to either charge a fee to use the room or to assess a damage deposit. She said that may have to be considered in the future. REP. BARRETT said another consideration is staff who are already busy with other work. She agreed that the issue of fees may have to be discussed in the future.

SEN. STAPLETON asked what groups are allowed to use building. Ms. Fox said that only public, non-commercial use is allowed. Ms. Fox said activities such as sales events, religious, or private business meetings are not allowed.

SEN. COONEY said that the Capitol is a public building and is frequently used for weddings or receptions and by service organizations and nonprofits groups. He said that he did not want it to become more difficult for the public to use these facilities but understood that some safeguards are necessary, given the technological improvements being made to the building. He asked that leadership be consulted before any event is scheduled in the House or Senate Chambers.

03:12:57 **Legislative Services Staffing Issue.** Ms. Fox said that she plans to have a Legislative Information Officer hired by fall and that the job description will be finalized soon. She reported that an offer has been made to fill the IT Architect position.

### **OTHER COUNCIL BUSINESS: HOUSE BILL 6 (SPECIAL SESSION)**

03:15:08 SEN. COCCHIARELLA said that this issue arises from HB 6 (EXHIBIT #8), passed in the 2007 Special Session, which revises the process for making appointments to legislative committees. SEN. COCCHIARELLA said that there are concerns about some of the language in the bill and referred Council members to Section 1(2) - page 1, line 23. She said that she agrees with SEN. STAPLETON's concerns and would like to have a bill drafted to clarify the language regarding "tied" houses. SEN. STAPLETON said that he would like to work with SEN. COCCHIARELLA to draft the language changes and discussed the situation that occurred in the 2005 Legislature. He said that the language dealing with interim committee does not to be changed because the problem lies with the appointment of session committees, where majority and minority status is a factor. REP. HIMMELBERGER asked that Mr. Petesch be involved with the drafting of the bill.

### **PUBLIC COMMENT**

03:19:07 Ms. Fairchild announced that Mr. Petesch received the 2007 Legislative Staff Achievement Award from NCSL and that he was nominated by staff and selected by his peers across the country. She said that the award is in recognition of excellence in providing assistance to the legislative institution.

### **ADJOURNMENT**

With no further business before the Council, SEN. BARKUS **moved** to adjourn the Council. The **motion passed** on a unanimous voice vote. REP. BERGREN adjourned the Council. The Council will meet in September, with the date to be determined at a later date.

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