



Legislative Council

62nd Montana Legislature

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SUSAN FOX, Executive Director
TODD EVERTS, Legal Division Director
DAWN FIELD, Secretary

Legislative Council Strategic Planning Session Summary Minutes September 15-16, 2011 Barrister Bed and Breakfast Helena

Marc Scow, facilitator

Committee Members Present

Senator Carol Williams, Chair
Representative Mike Milburn, Vice Chair

Sen. Jim Peterson
Sen. Mitch Tropila
Sen. Bruce Tutvedt
Sen. David Wanzenried

Rep. Chuck Hunter
Rep. Margie MacDonald
Rep. Tom McGillvray
Rep. Jesse O'Hara
Rep. Jon Sesso

Committee Members Excused

Senator Jeff Essmann

Staff Present

Karen Berger, Financial Services Manager
Dave Bohyer, Research Director
Kelly DaSilva, Human Resources Manager
Todd Everts, Legal Services Director
Susan Byorth Fox, Executive Director
Joe Kolman, Legislative Environmental Analyst
Jennifer Simmons, Accounting Specialist
Hank Trenk, OLIT Director

The Legislative Council convened approximately 1:30 p.m. on September 15, 2011, in a roundtable discussion. They recessed approximately 5 p.m. and reconvened on September 16, 2011 at 8:00 a.m. The Council adjourned at noon on September 16. The following is a summary of the discussion.

I. Issues and Outcomes - The Council used "Ideas for Legislative Council for Strategic Planning 2011-2012" as its outline and the summary follows in the order the issues were discussed. The work plan will consolidate similar areas in a separate document for the purpose of planning the interim work.

1. Pay plan legislation. The Legislative Council will encourage the Governor/OBPP to split the pay plan (traditionally HB 13) and any proposed pay plan rules into separate bill draft requests. The Legislative Council is the appropriate committee to make bill draft requests on behalf of the Governor/OBPP and will work with them toward this goal for the meeting at which they make their legislative requests.

2. Standing committees & business processes. Legislative Council and staff will work on the business processes and technological solutions to make standing committee votes accessible to legislators and the public more quickly.

Areas to research and explore solutions include:

- the committee minutes macros, the order of voting, and the timing of the posting of documents (exhibits, votes, minutes) to the web;
- improving training for committee chairs and secretaries;
- technological solutions, including remote voting (demonstration at the Digital Summit);
- providing a better record of who are proponents or opponents.

3. Standing committees & proxies. Discussion revolved around proxies out of the committee minutes discussion. Some of the problems identified are the number of proxies that are used or needed during committee action and the message that it sends to the public. Legislators are often juggling numerous committees and need to present their bills before other committees.

Areas to research and explore solutions include:

- research regarding historical numbers of legislators on committees, appointment of leadership to committees;
- the numbers of committees on which legislators serve;
- training for chairman to announce to the public why certain legislators are excused and need to use proxies for committee action.

4. Standing committees & number of legislators. Leadership has the challenge of trying to appoint legislators to multiple committees to provide them with experience, to create a "bench", to make sure everyone has a class 1 committee (one that meets 5 times a week), and to reflect the balance of the body.

Areas to research and explore include:

- historical numbers of legislators on committees and the numbers of committees on which they serve (related to 3);
- providing new leaders with more historical perspective through training and operating manuals.

5. Leadership training: Last session was the first session that there was a Leadership Training and the second session for which leaders were provided a Leadership Notebook.

Areas to research and explore include:

- holding training for all leaders including pro tems and whips;
- a secondary, smaller training for the newly-elected and former Speaker, President, majority and minority leaders to share their experiences;
- starting a Historical Book that former leaders can contribute their lessons learned and advice;
- broader training more than just initial training on strategies for the ending of the session when few people are involved: exit interviews (explore templates from corporate sector), opportunity to share knowledge in an informal setting;
- staff meet with Governor's staff to discuss roles and responsibilities to assist in a successful completion of the session.

6. Session caucus costs: Currently each chamber has a single budget for costs such as postage & printing.

Areas to research and explore include:

- each caucus within a chamber could be apportioned a budget that would be under the responsibility of the caucus leaders for their members for the costs of constituent communications (i.e. printing, postage);
- leaders (esp. Speaker and President) need a small budget to cover additional expenses they incur, such as working lunches or special projects, need to explore flexibility of funds;
- allowable expenses for legislators and leaders given they receive salary and per diem, tax implications, differences between and solutions for session and interim costs, respectively;
- how to reallocate existing budgets to allow more flexibility with accountability;
- other related items include legislator technology allowance and appropriate technologies, need for land lines or to provide cell phones under legislator communication and technology allowance.

7. Legislative calendar: Some legislators liked the 10 day period that the Governor had for HB 2 and proposed building in the calendar, others did not agree. There was agreement that perhaps HB 2 needed to move through the system differently in the future, but that we needed to map out the practical effects and scenarios to accomplish the legislators goals.

Areas to research and explore include:

- working with session staff to add more information to the Legislative calendar to complement the transmittal deadlines and guide committee chairs and all legislators on what is needed to meet transmittal deadlines, i.e. introduction, committee meetings and executive action, etc.;
- potential need for rule on timing for executive action in committee to avoid the jam-up at the end;
- what levers or processes could be used early in session to set the tone for greater success in the last days of session.

8. Bill draft timing: Legislators want to have bills with bigger policy issues out earlier in session.

Areas to research and explore include:

- giving leadership more bills to prioritize, more authority;
- working with lobbyists and legislators to be on task earlier with information that is necessary for bills to be drafted;
- analyzing the rules to determine if there are deadline changes that are necessary;
- additional training for all caucus leaders, need to address timing issue of training. Suggestions included additional training after orientation or to finish the orientation with a caucus retreat where caucus leaders talk to their members about rules and deadlines, role of bill drafters, bill drafts, kinds of requests, priorities, and getting information together and to drafters quickly.
- discussed possibility of more tools to help leaders identify when there are multiple bill drafts with same concept.

9. Legal review of bill drafts: Bill drafters flag bills with potential constitutional or legal problems and the notes are included in the junque file. This session there were more bills flagged, an increase in the amount of information requests for copies of junque files, and a change in how that information was used.

Areas to research and explore include:

- legal staff wants to make a presentation on the current bill drafting process and what staff does (review, providing notice, assisting to find other ways to draft bill, ultimate decision is legislator's), and provide some options gleaned from other states, such as use of a set format for review (like a fiscal note);
- bills that were flagged from last session and how far each one got through process.

10. Revenue Estimates: process and number itself. The last three sessions the revenue estimating resolution (HJ2) did not make it to the Senate.

Areas to research and explore include:

- 2009 bill died that would have had resolution start in Senate. Need to look at process, why a resolution is used, how to explain to public. Belief that without full vote how is there consensus or agreement, can there be, does there need to be, how to move process closer to consensus.
- explore philosophical differences regarding revenue and spending
- will hold a joint session with LFC, RTIC on the number

11. Medicaid estimate: The Medicaid estimate is the basis for the budget in many of the DPHHS programs and is built into the Governor's budget. There is no joint process currently for developing the estimate which is usually updated in March during the session. The Council members will explore the process of developing the Medicaid estimate. (The Legislative Finance Committee and HB 642 Select Committee are also looking into this - suggest to funnel all suggestions to LFC.)

12. Interim committee process: There is concern that interim committee legislation is not more successful and called into question the value of interim committees. There was discussion that interim committees provide intangible benefits in addition to recommended legislation, those of developing bicameral, bipartisan relationships and the value of time spent on studying various issues. It was noted that even if bills die, the knowledge and research is not lost (e.g. medical marijuana). There was also belief that some legislation would not have passed without the time spent in an interim committee (e.g. community crisis centers).

The goal of interim committees may not necessarily be successful legislation, but to involve more legislators in policy areas during the interim. There was a discussion about the value of the agency oversight, administrative rule review, and the responsibility to request legislation on behalf of the agencies. There was a belief that rote duties may be nonproductive and that perhaps only specific issues that are more controversial or topical should be monitored. The tension is how to balance oversight and developing a relationship between agencies and committees with little oversight and not having a legislative presence in the interim.

Areas to research and explore include:

- looking at the interim committee structure, including the appointment process and the number of legislators who serve and the budgets
- numerous non-legislative committees and interim appointments that need to be made and options in making appointments, including considering having leaders serve on the Legislative Administration Committees or a joint committee to assist leaders
- analyze the committees and the makeup of the committees
- an educational component for legislators to understand the various committees and their roles.

13. Standing committees and committee chair training. Earlier at the LC business meeting, a member of the public raised a concern about bills having amendments proposed immediately before or at the hearing without advance notice and without sufficient notice, the public is unable to comment on the amendments if not available prior to the hearing.

Areas to explore and research included:

- expanding committee chair training to include a discussion of the amendment process and how to provide sufficient notice to the public so they are able to testify on the bill and any proposed amendments.

14. Support for use of technology by legislators. Legislators currently receive an IT allowance every four years to purchase laptops. This may be too restrictive and legislators have other needs for which this could apply.

Areas to explore and research include:

- with the increased sophistication of cell phones, smart phones, tablets, etc., it may be time to review the IT allowance and expand the technology that it applies to.
- appropriate use of technology in committees and in floor sessions
- need for training on use of the resources available to legislators: LAWS, websites, publications
- need for training on decorum, public perception, importance of listening to public in committee hearings
- need to tell public what legislators are doing and how they use their laptops or other devices (related to appropriate use)
- need to discuss the use of paper and to what extent the legislature can go paperless which was one of the goals of laptops originally. Use of paper includes discussing who gets hard copies of bills, and whether there an alternative way to receive web and phone messages (can discuss pilot projects and last two sessions' experience).
- discuss the advanced agenda and how votes on the bill or amendments are posted
- discuss rules, usefulness of computers in committee or on floor, privacy vs. public right to know, transparency
- discuss costs, tax implications for allowances, potential offsets such as decrease use of desk phones, one time allowance vs. monthly allowance
- explore advances in technology for future, such as committee work stations

15. LAWS upgrade: There was a general consensus that an appropriation for the LAWS upgrade should be pursued again for next session.

16. Permanent House and Senate staff. Most legislators in other states have more permanent staff that is equivalent to session staff (Chief Clerk or Chief of Staff) than the nonpartisan permanent staff. Two different staff functions were identified. The first was related to facilities, supporting use of the chambers between sessions, and someone to have a head start at preparation for the session and the second was interim leadership support, especially for the Speaker and President. Immediately after session and well into the interim the leaders need support for scheduling appointments, returning, phone calls, letter writing, making appointments to committees, and authorizing travel.

Areas to research and explore include options from planning for a few existing session staff to stay beyond session to provide this support (maybe at least through the summer) to hiring full

time positions. Analysis is needed on which functions the LSD staff could be delegated and provide and which are more suited to partisan staff.

17. Legislative security. Last session, a bill was passed to allow legislative security officers to carry concealed weapons if they have a concealed weapons permit and there were more instances where legislators felt threatened either in committees or floor sessions.

Areas to research and explore include:

- roles and responsibilities of legislative security officers vs. sergeants-at-arms
- security policy
- how to provide additional security so that legislators, staff, and the public feel safer: uniformed officers vs. plain clothes, who does the hiring, needs and cost analysis.

II. Additional areas to explore for Leadership training that arose during the planning session:

- number of legislators on committees, number of committees legislators are appointed to, how it relates to use of proxies, whether speaker, president, other leaders should serve on standing committees, historical data
- two-part for all leaders including pro tems and whips, and a secondary, smaller training for the newly-elected and former Speaker, President, majority and minority leaders in an informal setting
- training on bills drafting process (junque files, public information, no atty/client privilege), more discussion of concerns so that leaders can manage caucuses more effectively, include concern about bills going further in process than some thought they should, and how can leaders manage that better and what tools would be most helpful
- more training for committee chairs
- use of laptops and cell phones: rules, decorum, public perception, usefulness, privacy vs. public right to know, transparency
- leadership budgets and flexibility

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