



Legislative Council

63rd Montana Legislature

SENATE MEMBERS

JEFF ESSMANN--Chair
ROBYN DRISCOLL
CLIFF LARSEN
JASON PRIEST
JON SESSO
CHAS VINCENT

HOUSE MEMBERS

CHUCK HUNTER--Vice Chair
BRYCE BENNETT
MARK BLASDEL
MARGARET (MARGIE) MACDONALD
JESSE O'HARA
GORDON VANCE

COMMITTEE STAFF

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

MINUTES LOG

May 16, 2013
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. ROBYN DRISCOLL
SEN. CLIFF LARSEN
SEN. JASON PRIEST
SEN. JON SESSO
SEN. CHAS VINCENT

REP. BRYCE BENNETT
REP. MARK BLASDEL
REP. MARGARET (MARGIE) MACDONALD
REP. JESSE O'HARA
REP. GORDON VANCE

STAFF PRESENT

SUSAN FOX, Executive Director
JARET COLES, Legal Staff
FONG HOM, Committee Secretary

AGENDA & VISITORS' LIST

Agenda ([Attachment 1](#))

Visitors' list ([Attachment 2](#))

COMMITTEE ACTION

- The Council approved the assignments of interim studies to interim committees as recommended by staff and changed the assignment of the SJR 14 study to State Administration and Veterans' Affairs Interim Committee and the HJR 2 study to Education and Local Government Interim Committee.
- The Council adopted the LSD Budget Operating Plan for the 2015 Biennium.
- The Council approved the recommendations for the Interstate Interim Committee Selections of the Senate and the House with the additional recommendations that Sen. Brenden be put on the Western Water and Environment Committee; Sen. Sesso be put on the Fiscal Affairs Committee and Sen. Malek on the Education Committee for CSG; and Sen. Malek put on the Education Committee and Sen. Sesso put on the Budgets Committee for NCSL.
- The Council authorized the transfer of \$108,000 from the operating expense account to the equipment expense account in Program 20 for the 2013 biennium.
- The meeting schedule for Legislative Council was approved

CALL TO ORDER AND ROLL CALL

00:00:01 SEN. ESSMANN called the meeting to order at 1:05 p.m. The secretary called roll. Sen. Sesso arrived at the meeting at 1:10 p.m.

AGENDA

ELECTION OF OFFICERS

Nomination for Chair

00:02:21 REP. O'HARA nominated Sen. Essmann as chair of the Legislative Council. The motion passed by voice vote.

Nomination for Vice-Chair

00:03:04 REP. BLASDEL nominated Rep. Hunter as Vice-Chair. The motion passed by voice vote.

REVIEW OF INTERIM STUDY RESULTS AND RECOMMENDATIONS

Staff Presentation - Dave Bohyer

00:04:06 Mr. Bohyer gave a presentation on the interim study results and the staff's recommendations. ([Exhibit 1](#)) Mr. Bohyer discussed the ranking of each study and which interim committee was assigned that study. ([Exhibit 2](#))

Sponsor Testimony

00:22:00 Mr. Bohyer said that there were several sponsors of interim study requests who could not attend the meeting and submitted their testimony by email. ([Exhibit 3](#))

00:22:25 REP. GIBSON spoke on HJ 17 and is available to answer any questions.

Committee questions

00:22:55 SEN. SESSO asked about some of the studies that were not listed under committee assignments.

Mr. Bohyer said that those studies were inadvertently left off of the chart for State Administration and Veterans' Affairs Committee, and if the Council adopts the staff recommendations, those studies will be assigned to that committee.

00:24:09 REP. MAC DONALD asked for more discussion on the study on state institutions as to whether it will be assigned to Law and Justice or to Children and Families.

Mr. Bohyer said that the principle reason that the staff went the direction of Children and Families was because of the workload that Law and Justice was going to have.

00:26:56 Ms. Fox said that even though the study would go to CFHHS, there is nothing that will stop those reports being provided to members of LJIC.

Public Testimony

00:28:38 Patti Jacques, said she is a proponent for HJR 16. She distributed written comments to the committee. ([Exhibit 4](#))

Assignment of interim studies

Motion

00:32:49 SEN. PRIEST moved for purposes of discussion the staff's recommendations with respect to assignment of interim studies to interim committees.

Committee discussion

00:33:21 REP. BENNETT said that SJ14 might be a good fit for State Administration.

00:34:42 SEN. SESSO asked how the staff work of HJ30 would be distributed.

00:35:18 Ms. Fox said that the study would become a collective staff white paper.

00:36:49 SEN. DRISCOLL presented the idea of publishing the findings in booklet form to be distributed.

00:37:37 SEN. LARSEN asked if there would be some concentration on taxation of some of the retired military benefits.

00:38:19 Ms. Fox said that that request for information was in the area of taxation and that has been assigned to Megan Moore, Staff Researcher.

Substitute Motion

00:38:42 REP. BENNETT moved to re-assign the SJR14 Study of Local Government

Election Procedures to State Administrative and Veterans' Affairs Interim Committee, and the HJR2 Study of Electronic Records Management to the Education and Local Government Interim Committee. **The motion passed unanimously by voice vote.**

2014-15 BUDGET STATUS REPORT - Amy Carlson, Legislative Fiscal Analyst

General Fund Status Sheet

00:42:01 Ms. Carlson discussed the General Fund Status Sheet, a report of the current status with the general fund budget. **(Exhibit 5)**

Committee questions

00:45:05 SEN. SESSO asked if the bottom line is based on the revenue estimate in SJR2.

Ms. Carlson said that the numbers in the yellow sheet are based on SJR2.

Status Sheet 10 (May 9 - Spending and Revenue)

00:45:25 Ms. Carlson discussed the Status Sheet 10 (May 9 - Spending and Revenue). **(Exhibit 6)**

Committee discussion

00:47:16 SEN. ESSMANN noticed the detail for FY14 and FY15 on HB218 that there is \$10 million in each of those years. Upon examining the fiscal note on that bill and it had \$15 million in FY 15. Was there a change to that bill that occurred after that last fiscal note was prepared?

00:47:29 Ms. Carlson said that HB 218 shows a spending impact for that initial transfer of general fund into that 02 fund. The additional \$15 million is a different type of general fund impact. LFD categorized that as a spending impact because it is a transfer instead of taking the money off the top.

00:52:36 SEN. SESSO asked what the definition of "with current vetoes" is.

00:52:49 Ms. Carlson said that they are vetoes that have no chance of coming back.

00:52:58 SEN. SESSO asked why HB 5 was not included.

00:53:14 Ms. Carlson said that HB 5 has a line item veto that does not affect the general fund.

00:53:40 SEN. ESSMANN said that the Governor's veto struck the language that required term use agreements with respect to the Habitat of Montana money. The Governor only struck that language and it does not have any impact in terms of the dollars that were actually appropriated by that bill.

00:54:10 SEN. SESSO asked where the \$49.5 million impact of HB 5 is reflected.

00:54:27 Ms. Carlson said that the money is going out-the-door for those HB5 projects. In all assumptions, they are assuming that the \$49.5 million has been spent.

00:54:49 SEN. SESSO asked if Ms. Carlson could describe the way in which the revenues and anticipated revenues are structured relative to the Fire Fund. It is his understanding that somewhere in HB 354 there is language that says new money goes into the fire fund. How is that reflected in the analysis?

00:55:31 Ms. Carlson said that in HB354, anything higher than the estimates that were locked in at the SJR 27 level would revert to the fire fund. Because the Governor's revenue estimate assumed much higher corporate tax revenues, she did not reflect that sweep if those revenues came in that way.

00:56:29 SEN. SESSO asked if HB 354 was written in such a way that the \$55 million would revert into the fire fund.

00:57:05 Ms. Carlson said she doesn't know how much of that \$55 million difference is corporate tax.

00:57:15 SEN. SESSO said that in the absence of that revenue, there wouldn't be any money in the fire fund except the carryover from this current year.

00:57:45 Ms. Carlson said that the other money that will flow into the fire fund would be reversions in excess of that amount in addition of that .5% of appropriations.

00:58:54 SEN. ESSMANN asked for a rundown of all the money that is in the fire fund that is anticipated coming from all the different flows that have been discussed to see what our best guess is of what might be available for expenditure through those sources, recognizing there are other emergency funds that the Executive Branch can access.

00:59:49 REP. HUNTER said that he is looking at the bottom line number of \$401 million and he is unclear as to whether the flow of funds that is going to be included in the fire fund would be deducted from this number to some degree.

01:00:23 Ms. Carlson said it would but it would probably happen the following fiscal year.

01:00:43 REP. HUNTER asked if the reversion piece also figures into what the bottom line number would be. He asked about the difference between the Executive Branch's \$13 million and the Fiscal Division's \$13 million, and what is included in that \$13 million.

01:01:13 Ms. Carlson said that their initial estimate was a difference of \$3.5 million. After they reviewed the amounts, they decided that some bonding was going to be issued in the next two years that would impact statutory appropriations with a \$5 million difference between LFD and the Executive estimates.

- 01:04:47 SEN. ESSMANN and Ms. Carlson discussed SB 96 and the guaranteed tax base aid offset.
- 01:05:31 SEN. ESSMANN asked if SB 175 made some changes to the guaranteed tax base.
- 01:05:36 Ms. Carlson said that Jim Standaert did the calculation of all the bills, and she would check with him.

OVERVIEW OF LEGISLATIVE SERVICES DIVISION 2013 BIENNIUM BUDGET - Susan Fox, Director

- 01:06:53 Ms. Fox discussed the budget for the National Conference of State Legislatures (NCSL); Council of State Governments (CSG); Pacific Northwest Economic Region (PNWER); River Governance. [\(Exhibit 7\)](#) She referred the committee to the 2013 Feed Bill Report [\(Exhibit 8\)](#), the Legislative Services Division budget, program 20 [\(Exhibit 9\)](#), and the interim committees budget, program 21 [\(Exhibit 10\)](#).

Review and approval of LSD FY 14 and FY 15 Operating Budget

- 01:16:44 Ms. Fox discussed the Legislative Services Division Program 2015 Biennium Budget Operating Plan. She referred the committee to Program 20 [\(Exhibit 11\)](#) and Program 21 [\(Exhibit 12\)](#). She said that the committee needs to approve both operating plans for program 20 and program 21.

Ms. Fox discussed the appropriations in the operating plan.

Motion

- 01:17:23 REP. O'HARA moved to adopt Budget Operating Plan, Programs 20 and 21, for the 2015 Biennium.

- 01:18:32 **The motion passed unanimously by voice vote.**

BREAK - reconvened at 2:51

APPOINTMENT TO INTERSTATE COMMITTEES: NATIONAL CONFERENCE OF LEGISLATURES AND COUNCIL OF STATE GOVERNMENTS, INCLUDING LEGISLATIVE COUNCIL ON RIVER GOVERNANCE

Review of leadership recommendations

- 01:46:11 Ms. Fox discussed the Interstate Interim Committee Selections. [\(Exhibit 13\)](#)

Motion

- 01:48:46 REP. MACDONALD moved to approve the recommendations on the Interstate Interim Committee Selections of the Senate and the House.

Committee discussion

- 01:49:02 SEN. ESSMANN said that he would like to add Sen. Brenden to the Western Water and Environment Committee, and would amend Rep. MacDonald's motion to reflect that.
- 01:49:52 SEN. SESSO requested that Sen. Malek be added on the Education Committee and he would be added on the Fiscal Affairs Committee for CSG. Sen. Sesso requested that he be added to Budgets and Sen. Malek added on the Education Committee for NCSL.
- 01:52:11 REP. MAC DONALD amended her motion to accommodate Sen. Essmann's and Sen. Sesso's recommendations. **The amended motion of Rep. MacDonald passed unanimously by voice vote.**
- 01:53:34 SEN. ESSMANN said that if there is an expression of interest from either house for senate majority or minority leaders in terms of adding additional members to these committees, he will direct Ms. Fox to schedule a teleconference in July to make those additions.

APPROVAL FOR OPERATING PLAN CHANGE FOR CENTRAL IT BUDGET - Susan Fox

- 01:54:09 Ms. Fox discussed the request of transferring money from one part of the existing 2013 Central IT budget to another part in the amount of \$108,000 for a blade center to house multiple servers not located at the data center. [\(Exhibit 14\)](#)
- Committee questions**
- 01:57:11 SEN. ESSMANN asked where the source of the \$108,000 of operating expenses is coming from.
- 01:57:20 Ms. Fox said that the transfer of money is reflected in the Program 20, 2013 Biennium sheet.
- 01:59:05 **Jen Simmons, Financial Services Manager**, said that the money is in the Central IT budget and reflects the transfer that the committee is approving.
- 02:01:32 SEN. SESSO asked if a negative balance is allowed in any line items at the end of the biennium.
- 02:02:21 Ms. Simmons said that there cannot be a negative first level ending budget. That is what the operating plan change would correct. The budget does not reflect that change now, but the expenditure does.
- Motion**
- 02:06:32 SEN. DRISCOLL moved to authorize the transfer of \$108,000 from the operating expense account to the equipment expense account in Program 20. **The motion passed unanimously by voice vote.**

PRIORITIES FOR INTERIM AND NEXT MEETING DATE: AUGUST 22 AND 23 FOR THE STRATEGIC PLANNING SESSION

02:07:59 Ms. Fox discussed proposed meeting dates for the Legislative Council's Strategic Planning Session and dates for the interim. [\(Exhibit 15\)](#)

Committee discussion for meeting dates

02:11:39 SEN. VINCENT
02:13:08 REP. O'HARA
02:13:41 SEN. ESSMANN
02:15:03 REP. VANCE
02:15:19 SEN. ESSMANN
02:15:43 Ms. Fox
02:15:54 SEN. ESSMANN
02:16:03 Ms. Fox
02:16:41 SEN. ESSMANN
02:18:25 Ms. Fox
02:18:45 SEN. ESSMANN

02:22:59 After some discussion, Ms. Fox said that the Strategic Planning Session will be scheduled for August 22-23, 2013; October 23, 2013, one-day meeting; December 5, 2013, one-day meeting; March 20, 2014, one-day meeting; May 14, 2014, one-day meeting; August 21, 2014, one-day meeting; and the final Legislative Council meeting on November 12, 2014, in conjunction with Caucus and Legislator Orientation.

Motion

02:23:50 The meeting schedule for Legislative Council was approved by voice vote.

2013 LEGISLATION STATUS AND UPDATE - Susan Fox

02:25:48 Ms. Fox provided an update of legislation from the 2013 Legislative Session [\(Exhibit 16\)](#).

Committee discussion

02:28:24 SEN. ESSMANN discussed HB 554, revise legislator compensation and benefit processing. He asked Ms. Fox to send a memo to the chairs of the committees that when appropriate, they can make use of teleconferencing for meeting participation.

LEGISLATIVE FISCAL DIVISION REPORT ON FIRE FUND ESTIMATE - Amy Carlson

02:30:53 Ms. Carlson gave a presentation on the Fire Fund Estimate [\(Exhibit 17\)](#) as was requested earlier in the meeting.

Committee discussion

- 02:35:02 SEN. LARSEN asked about the average costs of fighting fires.
- 02:35:17 Ms. Carlson said that \$23.8 million is the most recent average.
- 02:35:19 SEN. VINCENT asked Barbara Smith about past cost-sharing that might still be factored into the average.
- 02:35:40 **Barbara Smith, Legislative Fiscal Division**, said that they take seven years, drop the high year and the low year and arrive at the average.
- 02:36:06 SEN. VINCENT asked if we are seeing the state's cost sharing increasing because of our continued aggressive initial attack and call for resources.
- 02:39:09 Ms. Smith said that this year, the total cost to fight fires was \$60 million; \$9 million was reimbursable by other parties.
- 02:39:56 Ms. Carlson explained method of the transfer of fire funds.
- 02:40:10 SEN. ESSMANN discussed the anticipated \$34.1 million in the current fiscal year and the reversion estimate of Ms. Carlson's.
- 02:42:01 Ms. Carlson discussed the document entitled "Status Sheet 10 - May 9 - Spending and revenue" that shows the transfers to the fire fund ([Exhibit 18](#)).
- 02:44:07 Ms. Carlson distributed a document regarding HB3 talking points but did not discuss it. ([Exhibit 19](#))

UPDATE ON LEGAL CASE REGARDING STATE EMPLOYEE PAY FREEZE - Jaret Coles, Legal Staff

- 02:44:38 Mr. Coles discussed a recent decision on the case regarding an unfair labor practices charge that was filed against the Legislature and the state. ([Exhibit 20](#))

PUBLIC COMMENT - None

ADJOURNMENT

- 02:48:57 With no further business before the Legislative Council, SEN. ESSMANN adjourned the meeting at 3:54 p.m.

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