



Legislative Council

63rd Montana Legislature

SENATE MEMBERS

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

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BRYCE BENNETT
MARK BLASDEL
KRISTIN HANSEN
MARGARET (MARGIE) MACDONALD
GORDON VANCE

COMMITTEE STAFF

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

MINUTES

November 13, 2014
Room 317, 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.

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Hard copies of the exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of the document.

COMMITTEE MEMBERS PRESENT

SEN. JEFF ESSMANN, Chair
REP. CHUCK HUNTER, Vice Chair

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

REP. BRYCE BENNETT
REP. MARK BLASDEL
REP. MARGARET (MARGIE) MACDONALD
REP. GORDON VANCE

COMMITTEE MEMBERS EXCUSED

REP. KRISTIN HANSEN

STAFF PRESENT

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

AGENDA (Attachment 1)

VISITORS (Attachment 2)

COMMITTEE ACTION

- The Legislative Council approved the recommendation of the sale/transfer of land from the Montana Heritage Commission to Madison County.
- The Legislative Council recommended that the four proposals: December Training, IT/Communications Allowance, Permanent Chamber/Party Staff, and Additional House, Senate Operations be included in the 2015 Feed Bill.
- The Legislative Council adopted Proposals 1, 3, 4, 5, 6, 7, 9, and 10 of the recommended rule changes by the Rules Subcommittee.
- The Legislative Council adopted the rule change in S70-20.

CALL TO ORDER AND ROLL CALL

00:00:05 Sen. Essmann called the meeting to order at 11:24 a.m. The secretary called roll. Rep. Hansen was excused. **(Attachment 3)**

COUNCIL BUSINESS

Introduction of new staff - none

Litigation update - Todd Everts

00:00:30 Mr. Everts said that there are no updates regarding litigation matters.

351 LAND TRANSFER WITH MADISON COUNTY - Elijah Allen, Director, Montana Heritage Commission

00:01:48 Mr. Allen gave an overview of the proposed land transfer between Madison County and the Montana Heritage Commission. **(Exhibit 1)**

Public Comment

00:07:08 Jim Hart, Madison County Commissioner, commented on the proposed land transfer between the Montana Heritage Commission and Madison County. He encouraged the committee to grant the land transfer.

Committee questions

00:09:54 Sen. Sesso asked about whether an arrangement was made regarding compensation on both sides of the transaction.

00:10:10 Mr. Allen said that it is a purchased transaction at the appraised value for \$186,500 with the money going directly into preserving the historic sites in Virginia City and Nevada City.

Motion/Vote

00:11:11 Sen. Sesso moved to concur in the recommendation to sell the property to the Madison County for the purposes as outlined. The motion passed unanimously by voice vote with Rep. Hansen voting yes by proxy.

2015 SESSION PREPARATIONS

Code Commissioner Bill

00:13:19 Mr. Everts said that a sponsor for the Code Commissioner bill needs to be appointed. Sen. Driscoll volunteered to carry the Code Commissioner bill.

K-12 Funding Study Update

00:14:43 Ms. Fox gave a brief history of the Quality Schools Study that came out of the 2005 Session and the requirement in statute that a school finance study to be done every 10 years. Ms. Fox discussed if a separate committee other than the Education and Local Government interim committee be assigned the study and whether that study could be assigned to a different interim committee.

00:16:21 Rep. MacDonald commented that this would give the committee an opportunity to discuss and shape the study.

00:17:49 Sen. Essmann said he would ask Senator-elect Hansen if she would carry a study resolution on this issue.

Introduction of Legislative Security - Lenore Adams

00:20:21 Ms. Adams gave a brief overview of the Legislative Security Team.

00:20:25 Senior Officer Hank Webb introduced the other members of the team: Sgt. Jayson Zander and Officer Trevor Tangen.

Committee questions

00:21:21 Rep. Hunter asked if there was a number to call if there is a request for assistance.

00:21:31 Senior Officer Webb gave out two numbers: 444-9498 or 4465. You can always call the Dispatch Center in Helena. If it's an emergency, call 9-1-1; if it's a nonemergency situation, dial 447-8461.

00:22:26 Ms. Adams said that she will distribute a laminated list to the legislators.

00:22:58 Rep. Bennett asked if anyone will be in the Capitol Building during the Saturday sessions.

00:23:35 Officer Webb said that if needed they can schedule that in.

BUDGET ITEMS

Biennium Budget Comparison

00:25:59 Ms. Fox discussed the Legislative Branch Budget. **(Exhibit 2)**

Feed Bill Overview

00:28:44 Ms. Fox discussed the draft 2015 Feed Bill. **(Exhibit 3)**

Committee questions

00:31:59 Sen. Essmann asked what the costs are to operate the Legislature and the three divisions: Audit, Fiscal, and Services.

00:32:22 Ms. Fox said that the total amount for Fiscal Year 2016 would be \$15 million; for Fiscal Year 2017, \$14.7 million; and HB 1 which operates the House and Senate during session is \$10,061,839.

00:33:24 Sen. Essmann asked what the increase would be if these were combined?

00:33:33 Ms. Fox said that because HB 2 is at a negative .88%, it would be 8% to 9%.

BREAK - reconvened at 12:24 p.m.

Proposals for 2015 Feed Bill

00:55:27 Ms. Fox discussed the four proposals for consideration by the Legislative Council: December Training, IT/Communications Allowance, Permanent Chamber/Party Staff, and Additional House, Senate Operations. **(Exhibit 4)**

Committee discussion

00:58:12 Rep. MacDonald said that she finds these consistent with the outcomes and discussions that they had at the Council's retreat where they took some time to consider how to strengthen the Branch.

Motion/Vote

00:59:21 Rep. MacDonald moved that the Legislative Council recommend the four proposals to new leadership of the next session for inclusion in the budget. The motion passed unanimously by voice vote with Rep. Hansen voting yes by proxy.

Rules Subcommittee Report

01:00:10 Mr. Everts discussed the Recommended Proposals of the Rules Subcommittee (10/13/2014). **(Exhibit 5)**

01:01:36 Rep. Hunter requested that Proposal #8 be segregated and discussed separately.

01:03:21 Rep. Bennett requested that Proposal #2 be segregated.

Motion/Vote

01:04:00 Sen. Larsen moved to adopt Proposals 1, 3, 4, 5, 6, 7, 9, and 10. The motion

passed unanimously by voice vote with Rep. Hansen voting yes by proxy.

Discussion on Proposal #2

- 01:04:55 Rep. Bennett said that this is problematic to the voters and to anybody who wants to have a strong sense of what exactly a bill does. If we are burying the bill title further into the body, it takes away from the public's right to know what exactly the referendum is trying to do. He would not want to see this included in our rules.
- 01:05:40 Sen. Sesso asked about the legal justification for this proposal.
- 01:06:04 Mr. Everts explained the Supreme Court ruling on the 100-word limitation that is in statute regarding referendum.
- 01:08:08 Rep. Hunter said that our goal is to have the most information we can have to the public to know what's taking place in a referendum.
- 01:10:38 Sen. Sesso asked if there were requirements in the law or in the constitution that says you have to be clear about what the referendum actually does. He said he would be against taking part in anything that would not make it clear to the voter exactly what the referendum is repealing.
- 01:13:05 Mr. Everts said that the information that doesn't get put in is the reference to the sections of law that are being repealed or amended in the title.
- 01:18:07 Sen. Larsen asked if it is Mr. Everts' opinion that there will be fewer words to describe in plain language what the public should be able to read when they review these bills.
- 01:19:08 Mr. Everts said that if you move these down into the body of the bill, then what is left is doesn't count towards the 100-word limit that is set in statute and it would allow the legislature, when they are drafting these referendums, more actual words to be put into the title so that the public can understand what is happening in the referendum.
- 01:24:18 Rep. Bennett said that the reason behind this law is to make sure that our bill titles aren't too long as to make it overly confusing for the voter and to make it readable by the voters. The problem is when we try to put out bills that have a lot of changes to a lot of sections, those bills should be dealt with the Legislature who has the time to look through the details of these bills and be put in front of the voters who only have a few minutes to look at the issues in the ballot box.
- 01:26:13 Sen. Sesso said that from a drafting perspective, the Supreme Court has ruled that you have to state in the title part of the words that are being put on the ballot.
- 01:27:05 Mr. Everts said that if no action is taken on this rule, we would probably not put the sections that are amended in the title so as not to exceed the 100-word limit,

and then draft the bill and not include a repealer section.

01:28:00 Sen. Sesso concurred with Rep. Bennett in that we should not be putting referenda in front of the public that amends multiple sections of law and if we stick to the specific questions for the public on the referendum, there should be plenty of room for the reference to the section of law in the title.

01:29:10 Sen. Vincent said that he will support this rule change.

01:31:47 Rep. MacDonald said that every piece of code that is amended could be placed underneath the title of the bill and the body of the bill, and that would not appear on the ballot.

Motion/Vote

01:32:21 Sen. Essmann moved to adopt Proposal #2 of the joint rules. The motion failed on a roll call vote 6-6, with Rep. Hansen voting yes by proxy. ([Attachment 4](#))

Discussion on Proposal #8

01:34:08 Rep. Hunter said that the primary purpose is to preserve the amount of institutional knowledge we have from session to session in the House. As we have looked at these committees today and tried to make assignments, we realize that by making the switch we would lose a lot of people who had served on these committees in the past and we wouldn't have the ability to preserve that knowledge. As we think about moving committees, it's the unintended consequences that we really haven't thought of today.

01:38:53 Sen. Essmann said that failing to adopt a change will have severe repercussions for the House in establishing its committees.

01:41:15 Sen. Sesso asked that when Ms. Fox did the analysis on the number of bills, did the energy committee in the House have the least number of bills?

01:41:42 Ms. Fox said that she doesn't not have that data with her, but the Energy Committee was only scheduled for Monday and Wednesday.

01:42:38 Sen. Vincent said that he heard from one entity that they did not feel that there needed to be any changes.

01:43:36 Rep. Hunter said that he feels that this proposal should not move forward.

01:44:44 Ms. Fox said that the preference forms were written as if the change was going to happen and so were the big sheets. She said she prepared materials on the assumption that this proposal would pass.

01:45:27 Rep. MacDonald said she thought that it said on the preference sheets that this was a tentative proposal and was not a final rule.

01:46:29 Ms. Fox said that because this is in the House Rules Committee, the House will

have the final decision.

01:48:17 Sen. Driscoll said that we could address it by not making any motions today and let the House deal with that.

01:48:58 Rep. Hunter said that he will discuss this issue with the Speaker-elect and see what the House can do.

Discussion on S70-20 and S70-30

01:50:14 Sen. Essmann discussed S70-20 to incorporate the request of the Secretary of the Senate that the bill draft for confirmation of the governor's appointees start in the President of the Senate's Office to make sure that those requests get started. It does not change as a result of the committee discussion as S70-30 was that the changes to it were pared back to the current practice in the Senate which is a senator can request the committee chair to segregate a nominee for separate consideration to keep that process moving.

Motion/Vote

01:50:59 Rep. Blasdel moved to adopt the rule change in S70-20. The motion passed with Rep. Hansen voting yes by proxy.

Discussion S50-220, Call of the Senate

Motion

01:52:49 Sen. Vincent moved to adopt the rule change in S50-220.

Committee discussion

01:53:12 Sen. Sesso said this rule is not broken and he would recommend a no vote.

01:53:24 Sen. Essmann said that the real reason for having a call of either the House or the Senate is to make sure that you have a sufficient number of members in the chamber to conduct business properly with a quorum. For that reason, a rule that allows a very small number of senators to issue a call over an absence of one member serves no purpose in terms of the function of the Senate other than to provide obstruction to the operations of the Senate and consideration of bills.

Roll call vote

01:54:20 The motion failed on tie vote 6-6, with Rep. Hansen voting yes by proxy.
(Attachment 5)

Discussion on the Legislative Council providing guidelines for legislative orientation training and presiding officer training regarding decorum with respect to the use of electronic devises.

01:56:02 Ms. Fox said that Mr. Everts cleaned up language and added subsection (3). If there are any changes to the language and if the committee could suggest what method the changes can be communicated to the members of the Legislature.

- 01:56:45 Sen. Vincent said he would support the draft guidelines as written.
- 01:56:51 Sen. Essmann said that he appreciated the work of the staff in the drafting of the guidelines with respect to the use of electronic devices for the new members.
- 01:58:40 Rep. Blasdel said that we could consider putting it in the appendix, but maybe a letter in the welcome packet on day 1 and also a second letter in every Class A Committee and have that committee chair walk through the guidelines.
- 01:59:07 Rep. Bennett asked for clarification of subsection (2), use of electronic devices should be nondestructive and open. What does “and open” mean and how is one open about their use of electronic devices?
- 02:00:00 Ms. Fox said that if you are going to be using an electronic device, use it openly.
- 02:01:28 There was a discussion on mailing the guidelines to the members of the Legislature, putting them in the Welcome packet, and ensuring that the Class A committee chairs set ground rules on decorum for use of electronic devices in their committee hearings. Rep. MacDonald said that she would like to see the guidelines in the appendix of the Rules as well.
- 02:03:16 Sen. Essmann suggested including that in the Rules Book publication.

PUBLIC COMMENT - none

House Joint Resolution 30: Benefits for Military Personnel and Veterans

- 02:03:53 Ms. Fox said that the HJR30 Study was not assigned to an interim committee because it was a staff assigned study. She referred the committee to the preliminary finding ([Exhibit 6](#)) and said that if a legislator wanted a copy, she can provide them with one.

Research on Other Legislatures Binder

- 02:04:31 Ms. Fox referred the committee to the research material on What Other Legislatures Do that is contained in the binder that Lindsay Grovom had put together. She asked if the Council wanted to this information made available to new leadership or to each chamber. She said that it will be in the Library for reference.
- 02:05:11 Sen. Essmann suggested that after the December leadership training, a visit with the new leadership to discuss any concepts that they might want to adopt for this session or continue to research for future sessions.

ADJOURNMENT

- 02:06:23 Sen. Essmann adjourned the meeting at 1:35 p.m.