



# Legislative Council

## 64th Montana Legislature

### SENATE MEMBERS

DEBBY BARRETT  
EDWARD BUTTREY  
ROBYN DRISCOLL  
TOM FACEY  
JON SESSO  
JANNA TAYLOR

### HOUSE MEMBERS

BRYCE BENNETT  
JEFF ESSMANN  
STEPHANIE HESS  
CHUCK HUNTER  
AUSTIN KNUDSEN  
MARGARET ( MARGIE ) MACDONALD

### COMMITTEE STAFF

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

## MINUTES LOG

May 18, 2015

Room 102, Capitol Building  
Helena, Montana

Please note: This document is a Minutes Log and provides a notation of the time elapsed between the beginning of the meeting and the time at which the item was presented or discussed, a motion was made, or a vote was taken. The narrative presented here is provided only as a guide to the audio or video record of the meeting. The official discussion, motion, or vote is available on the audio or video archive of this meeting. The Legislature does not prepare a transcript of meeting activities. The time designation may be used to locate the referenced discussion on the audio or video recording of this meeting.

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Please contact the Legislative Services Division at 406-444-3064 for more information.

### COMMITTEE MEMBERS PRESENT

SEN. DEBBY BARRETT  
SEN. ROBYN DRISCOLL  
SEN. TOM FACEY  
SEN. JON SESSO  
SEN. JANNA TAYLOR

REP. BRYCE BENNETT  
REP. JEFF ESSMANN  
REP. STEPHANIE HESS  
REP. CHUCK HUNTER  
REP. AUSTIN KNUDSEN (by phone)  
REP. MARGARET (MARGIE) MACDONALD

### COMMITTEE MEMBERS EXCUSED

SEN. EDWARD BUTTREY

### STAFF PRESENT

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

## VISITORS' LIST (Attachment 1)

## AGENDA (Attachment 2)

### COMMITTEE ACTION

The Legislative Council took the following actions:

- approved the nominations of Rep. Hunter as Presiding Officer and Sen. Barrett as Vice Presiding Officer;
- requested that a letter signed by the Governor, the Attorney General, the Speaker of the House, the President of the Senate, the Chief Justice of the Supreme Court, and the director of the Department of Corrections be sent to the CSG Justice Center regarding SB 224, Commission on Sentencing;
- adopted the proposed 2015 Montana Code Annotated prices;
- accepted the list of appointments to the NCSL and CSG Committees;
- adopted the substitute language in the Memorandum of Understanding between the Historical Society and the Legislative Branch;
- approved the 2017 Biennium Budget Operating Plan for Program 20 and 21, as presented;
- adopted the Legislative Services Division's staff recommendations for assignment of interim studies, assigned the HJR 29 study to the Economic Affairs Interim Committee, and assigned the SJR 22 study to the Children and Family Services Interim Committee;
- recommended that the transfer of land from the Department of Military Affairs to Miles Community College proceed in accordance with the ultimate decision by the Land Board; and
- authorized the commitment of additional funds to SB 224, Commission on Sentencing.

### CALL TO ORDER and ROLL CALL

00:00:25 Sen. Barrett called the meeting to order at 10:00 a.m. The committee secretary called roll. Rep. Knudsen participated by phone. Sen. Buttrey was excused.  
(Attachment 3)

### ELECTION OF OFFICERS

00:02:09 Rep. Essmann nominated Rep. Hunter as Presiding Officer of the Legislative Council. The committee approved the nomination unanimously by voice vote.

00:02:29 Sen. Facey nominated Sen. Barrett as Vice Presiding Officer of the Legislative Council. The committee approved the nomination unanimously by voice vote.

### BRIEFING FROM THE CSG JUSTICE CENTER - Carl Reynolds, Senior Legal and Policy Advisor, Council of State Governments, Justice Center

00:03:47 Mr. Reynolds gave a presentation on the Justice Reinvestment Act. A copy of SB 224, which created the Commission on Sentencing, was provided to the committee. (Exhibit 1)

#### Committee questions of Mr. Reynolds

- 00:23:54 Sen. Sesso asked if Mr. Reynolds wanted the Legislative Council to take a particular action on this issue?
- 00:24:26 Mr. Reynolds requested that a letter asking the CSG Justice Center to provide technical assistance with regard to SB 224 be written and signed by the Chief Justice, the leadership of the Legislature, the Governor, and the Director of the Department of Corrections.

#### **Motion/Vote**

- 00:30:24 Sen. Driscoll moved that the staff of the Legislative Council ask the representatives listed from the various branches of government to write a letter requesting technical assistance from the CSG Justice Center.

#### Discussion on the motion

- 00:30:48 Rep. Hunter asked Ms. Fox if this request should come from the Legislative Council or from the Commission on Sentencing?
- 00:32:24 Sen. Facey asked Mr. Reynolds if it would be best if the letter came from the Speaker of the House and the President of the Senate, or from leadership of the Legislative Council?
- 00:32:46 Sen. Facey said that he would add a friendly amendment to Sen. Driscoll's motion that Legislative Council ask that the Speaker and the President sign the letter.
- 00:33:43 Sen. Taylor commented on the formation of the Commission and its membership and the fact that the governor line-item vetoed the appropriation in the budget, indicates that the Executive Branch is not invested in the Commission.

#### **Substitute Motion/Vote**

- 00:34:48 Sen. Driscoll made a substitute motion to ask the Governor's Office, the Attorney General, Speaker of the House, and the President of the Senate, and the Chief Justice of the Supreme Court to each write a letter or have one letter with their signatures requesting the technical assistance from the CSG Justice Center.
- 00:35:52 The motion passed unanimously by voice vote.
- 00:37:37 Rep. Hunter asked staff to proceed with a letter from the Legislature.

#### **SET PRICES FOR SESSION PUBLICATIONS**

- 00:38:01 Todd Everts, Legal Director, discussed the memo "Proposed 2015 Montana Code Annotated Prices". ([Exhibit 2](#))

#### **Motion/Vote**

- 00:42:46 Rep. Bennett moved that the proposed 2015 Montana Code Annotated prices be adopted.

00:43:05 The motion passed unanimously by voice vote.

### **APPOINTMENT OF NCSL AND CSG COMMITTEE MEMBERS**

00:43:21 Susan Fox, Executive Director, submitted the appointments to NCSL Committees and the CSG Committee for the Legislative Council's approval. **(Exhibit 3)**

#### Committee Discussion

00:43:56 Rep. Hunter wanted to substitute Rep. McCarthy for Rep. Jacobson on the CSG West Canada Relations.

00:44:54 Sen. Barrett recommended that Sen. Fielder and Sen. Vuckovich remain on the Legislative Council on River Governance.

#### **Motion/Vote**

00:45:36 Sen. Facey moved to accept the list of appointments of the NCSL and CSG Committee members with the changes as noted.

00:45:53 The motion passed unanimously by voice vote.

### **CHAMBER ACCESS POLICY**

00:46:03 Ms. Fox discussed the Memorandum of Agreement between the Historical Society and the Legislative Branch. **(Exhibit 4)**

#### Committee discussion

00:47:13 Rep. Essmann stated his preference to retain the language contained in the original draft Memorandum of Understanding and said he would like to change the language that no one gets on the rostrum without the explicit permission of either the President of the Senate and Speaker of the House.

00:51:28 Ms. Fox explained that the Memorandum of Understanding is to help the Historical Society when they conduct tours on the weekends and to preclude unauthorized activities in the chambers after hours.

00:52:04 Rep. MacDonald said that in reference to Rep. Essmann's comments, there is a definite need to protect that space when in session, but the people of Montana like having access to their capitol and she would like to preserve that.

00:52:47 Rep. Hunter discussed the practicality of having the Speaker or the President personally involved in all of the decisions.

00:54:44 Rep. Knudsen said that he is unclear as to when we would need to have authorization from either the Speaker of the House or the President of the Senate. He asked if the committee is talking about just coming on the floor or going up on the rostrum?

- 00:55:15 Ms. Fox said that the discussion is, should the approval for access to the chambers be granted by the Sergeant at Arms, by the Legislative Services Division's Facilities Coordinator, or by the Speaker and the President?
- 00:55:43 Rep. Knudsen said that he is comfortable having that level of access to the upper rostrum be approved by the Speaker and the President.
- 00:57:15 Rep. Hunter discussed the last sentence "If a tour group is accompanied, the members of the tour may sit in legislator chairs" which is speaking directly to the point that Marilyn Miller made, and that approval will be made by the presiding officers of the chambers rather than the Sergeant at Arms or the Facilities Coordinator.

**Motion/Vote**

- 00:57:37 Rep. Essmann moved to adopt the suggested substitute language on page 2 under the heading "These are the expectations and conditions upon which the Chambers may be Accessed".

Discussion on the motion

- 00:57:47 Sen. Sesso asked if it is implied that the group is accompanied by a tour group leader?
- 00:58:00 Ms. Fox said that because this is an MOU between the Historical Society and the Legislature, it would mean specifically accompanied by a Historical Society tour guide.
- 00:58:43 Sen. Sesso suggested language as a friendly amendment to the motion to say "if a tour group that is accompanied by authorized personnel".

**Motion/Vote on friendly amendment**

- 00:59:07 Rep. Hunter said that the motion on the floor is to adopt the suggested substitute language with the exception that the language, "presiding officers" be inserted instead of "Sergeant at Arms or Legislative Services Facilities Coordinator", and also add "by authorized personnel" after "accompanied".
- 01:01:33 The motion passed unanimously by voice vote.

**Motion/Vote**

- 01:01:45 Rep. Essmann moved for adoption of the Memorandum of Understanding as amended.
- 01:01:50 The motion passed unanimously by voice vote.

**LEGISLATIVE SPACE: SHORT-TERM REQUEST AND LONG-TERM PROPOSAL**

- 01:02:09 Ms. Fox discussed the proposal that the Legislative Services Division would like to present regarding legislative space.

01:03:52 Sen. Facey said that he would encourage anybody that has a decision point to allow the Information Technology Division to move up to the 3rd floor versus being in the basement.

#### **ADOPTION OF 2016-17 BUDGET OPERATING PLAN**

01:04:41 Ms. Fox gave a presentation on the Biennium Budget Operating Plan: Program 20 ([Exhibit 5](#)) and Program 21 ([Exhibit 6](#)). Ms. Fox asked that the Council approve the two budget operating plans.

01:06:28 Ms. Fox referred the committee to the memo "Funding the Interim Committee Study Bills" ([Exhibit 7](#)) and briefly discussed the Legislative Services' proposal.

#### **Motion/Vote**

01:08:23 Sen. Driscoll moved to approve the 2017 Biennium Budget Operating Plan for Program 20 and 21, as presented.

01:08:40 The motion passed unanimously by voice vote.

#### **Committee discussion**

01:08:47 Rep. Essmann suggested that at the summer retreat, the Council have a discussion on the concept of whether the Legislative budget should be included in the bill rather than having the Feed Bill separate from the portion of the budget which is in House Bill 2.

#### **REVIEW OF INTERIM STUDY RESULTS AND RECOMMENDATIONS, WORKLOAD AND ASSIGN INTERIM STUDIES - Dave Bohyer, Research Director**

01:10:00 Mr. Bohyer gave a presentation on the results of the Poll on Interim Study Resolutions. ([Exhibit 8](#))

01:10:20 Mr. Bohyer highlighted the four new committee created by bill and the three interim studies assigned by bill.

01:23:21 Sen. Taylor discussed the makeup of the Commission on Sentencing, SB 224.

01:24:26 Rep. MacDonald discussed the list from which three members from the public would be appointed by the governor to the Commission on Sentencing.

01:32:22 Rep. Essmann commented on the Medicaid expansion waiver process resulting from SB 405 that could take 6 to 9 months to complete.

01:32:47 Mr. Bohyer discussed the closure of the Montana Developmental Center and the monitoring of medical marijuana that is under Children and Family Services Interim Committee.

- 01:35:05 Rep. Bennett asked for clarification on HJR 21 that staff recommended for assignment to the State Administration and Veterans' Affairs Interim Committee.
- 01:35:40 Ms. Fox said that the staff had a discussion on where HJR 21 belonged, settling on the State Administration and Veterans' Affairs Committee.
- 01:39:00 Mr. Bohyer discussed Table 2, Results of the Interim Study Poll. He reported on the three studies that were recommended by staff to not be assigned were SJR 22, HJR 29, and HJR 14.

**BREAK** (reconvened at 11:58 a.m.)

**Sponsor of Bills Testimony**

- 01:58:40 Sen. Sands provided testimony for SJR 24, the study of sexual assault.
- 02:00:57 Rep. Olsen provided testimony for HJR 29, study membership-based health services to determine insurance, cost impacts.

Committee questions on HJR 29

- 02:05:29 Rep. Essmann asked Rep. Olsen if she intended to study other models that are used in other states.
- 02:05:34 Rep. Olsen said her committee had recognized that costs for air ambulance services was a problem not only in Montana but nationwide.
- 02:07:48 Rep. Bennett provided testimony for HJR 21, study ownership of personal information.
- 02:09:49 Sen. Hamlett provided testimony for SJR 2, study state assumption of federal dredge/fill permits.

Committee questions on SJR 2

- 02:13:36 Sen. Sesso asked Sen. Hamlett if he wanted the SJR 2 study to go to the Water Policy Committee. Sen. Hamlett said yes.

**Public Comment on the studies**

- 02:14:20 Kevin Nelson, Billings, provided comments on different interim studies.
- 02:20:08 Robin Turner, Montana Coalition Against Domestic and Sexual Violence, supported SJR 24.
- 02:22:06 Jesse Laslovich, Montana State Auditor's Office, asked the committee to reconsider the staff's recommendation regarding the HJR 29 study.
- 02:26:51 Kathy McGowan, Helena, discussed the high costs of air ambulance services and supported the assignment of HJR 29 to an interim committee.
- 02:29:54 Cheryl Wood, Associate Director, Montana Association of Counties, commented on SJR 2 and HJR 29 and asked that the committee support both studies.

- 02:33:23 Dawn Field, Townsend, urged the committee to reconsider the recommendation from staff regarding the HJR 29 study.
- 02:34:32 John Maximus, Bozeman, asked that the committee support the HJR 29 study.

Committee questions on HJR 29

- 02:38:02 Sen. Taylor asked Mr. Laslovich if there was a way to force a hospital to call a preferred provider.
- 02:38:32 Mr. Laslovich said that the State Auditor cannot force insurance providers to put into the network air ambulance services nor can the State Auditor force an air ambulance company to agree to in-network rates.
- 02:39:11 Rep. Essmann asked Cheryl Wood if she suspects that some of the air ambulance companies are offering financial inducements to the hospitals in terms of assigning the workload?
- 02:39:52 Ms. Wood said that she could not answer that question.

**Motion/Vote**

- 02:44:12 Sen. Facey moved to accept the staff recommendation of study resolutions 1 through 15 as they are stated and to assign HJR 29 to the Economic Affairs Interim Committee.

Committee discussion on the motion

- 02:46:08 Rep. Hunter asked for clarification of Sen. Facey's motion.
- 02:46:34 Sen. Facey said that the committees would not do SJR 22 and HJR 14, but accept the rest of the studies on the list.
- 02:46:46 Sen. Barrett asked Mr. Everts if there is anything in the law that would preclude the committee from polling the legislators again. Mr. Everts said that there isn't anything that would prohibit the committee from re-polling.
- 02:47:50 Sen. Facey discussed some of the bills that were introduced that bypassed the polling process.
- 02:48:48 Sen. Driscoll said she feels that it is too late at this point to re-poll because a lot of interim committees will be having their first meeting in the next few weeks.
- 02:49:24 Sen. Taylor suggested not doing HJR 16, HJR 26, and HJR 8 because of their low ranking.
- 02:51:15 **Sen. Facey withdrew his motion.**

**Motion/Vote**

- 02:51:26 Rep. Essmann moved to add SJR 22 to the list and to assign the study to the Children and Family Services Interim Committee.

Committee discussion

- 02:52:52 Rep. Essmann asked Sen. Sands if SJR 22 could be dealt with in the Law and Justice Interim Committee.
- 02:53:45 Sen. Sands discussed her willingness to be the liaison between the Children and Family Services Interim Committee and the Law and Justice Interim Committee.
- 02:54:23 Rep. Hunter asked Rep. Essmann if he is proposing to add SJR 22 and HJR 29 to the list?



02:54:36 Rep. Essmann said that his motion did not include HJR 29 but that doesn't mean that someone else couldn't make that motion.

#### **Amended Motion/Vote**

02:54:47 Sen. Facey moved to amend Rep. Essmann's motion to include HJR 29.

#### Committee discussion

02:54:56 The committee discussed whether to assign SJR 22 to the Children and Family Services Interim Committee or to the Law and Justice Interim Committee, the concerns regarding the workflow of the Children and Family Services Interim Committee, and if HJR 29 could be assigned to the Economic Affairs Interim Committee.

02:57:13 Rep. MacDonald discussed assigning SJR 22 to the Law and Justice Interim Committee.

02:57:39 Mr. Bohyer explained that the reason staff recommended that SJR 22 not be on the list is because the Children and Family Services and the Law and Justice committees are heavily weighted as far as the statutory studies that have been already assigned to them.

02:59:05 The motion to adopt the Legislative Services Division's staff recommendations and to assign HJR 29 to the Economic Affairs Interim Committee and SJR 22 to the Children and Family Services Interim Committee passed 7-3, on a voice vote with Rep. Bennett, Sen. Sesso, and Sen. Taylor voting no. Sen. Buttrey and Rep. Knudsen were not present to vote.

#### **LAND TRANSFER BETWEEN DEPARTMENT OF MILITARY AFFAIRS AND MILES COMMUNITY COLLEGE**

03:00:50 Ms. Fox distributed a copy of the Rules and Procedure for Land Transfer Duties. She said that 77-2-351, MCA, requires that the Legislative Council hear the land transfer proposal and make a recommendation; then the agency will go to the Land Board for final approval. She referred the committee to the handout of the agency land transfer. **(Exhibit 9)**

03:01:42 Debra LaFontaine, Department of Military Affairs, gave a presentation on the department's request to transfer land to Miles Community College. **(Exhibit 10)**

#### Committee questions

03:03:02 Rep. Hunter asked Mr. Everts if the proposal and the report met the standards as set out in the Rules and Procedure?

03:03:17 Mr. Everts explained the procedure of the land transfer process and replied that the proposal met the standards.

#### **Motion/Vote**

03:03:52 Rep. Essmann moved that the Legislative Council approve the transfer of land from the Department of Military Affairs to the Miles Community College in accordance with the ultimate decision by the Land Board.

03:04:10 The motion passed unanimously by voice vote.

#### **NEXT MEETING DATE**

03:04:41 Ms. Fox discussed possible meeting dates for the Legislative Council's strategic retreat: August 10 - 14 or August 17 - 21.

03:07:35 The committee preferred the week of August 10 through 14.

#### **FUNDING OF STUDIES**

03:09:40 Ms. Fox referred the committee to the memo on funding interim studies (Exhibit 7) and discussed the funding issue for SB 224. She asked that the Legislative Council give her the authority to use preliminary funds to assist in any organizational efforts that is needed for SB 224.

#### **Motion/Vote**

03:12:09 Sen. Driscoll moved to authorize that Ms. Fox and the Legislative Council commit available funds identified by Ms. Fox to the SB 224 study.

03:13:15 The motion passed unanimously by voice vote.

#### **ADJOURNMENT**

03:13:57 With no further business before the committee, Rep. Hunter adjourned the meeting at 1:13 p.m.

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