



# Legislative Council

## 64th Montana Legislature

### SENATE MEMBERS

DEBBY BARRETT--Vice Chair  
EDWARD BUTTREY  
ROBYN DRISCOLL  
TOM FACEY  
BOB KEENAN  
JON SESSO

### HOUSE MEMBERS

CHUCK HUNTER--Chair  
BRYCE BENNETT  
SETH BERGLEE  
STEPHANIE HESS  
AUSTIN KNUDSEN  
MARGARET ( MARGIE ) MACDONALD

### COMMITTEE STAFF

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

## MINUTES LOG

May 18-19, 2016  
Room 102, Capitol Building  
Helena, Montana

**MAY 18, 2016**

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.

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 Log, along with the audio and video recordings, is listed by meeting date on the interim committee's web page. Each of the "Exhibits" is linked and can be viewed by clicking on the Exhibit of interest. All Exhibits are public information and may be printed.

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

### **COMMITTEE MEMBERS PRESENT**

REP. CHUCK HUNTER, Chair  
SEN. DEBBY BARRETT, Vice Chair

SEN. EDWARD BUTTREY  
SEN. ROBYN DRISCOLL  
SEN. TOM FACEY  
SEN. JON SESSO

REP. BRYCE BENNETT  
REP. SETH BERGLEE  
REP. STEPHANIE HESS  
REP. AUSTIN KNUDSEN  
REP. MARGARET (MARGIE) MACDONALD

### **COMMITTEE MEMBERS EXCUSED**

SEN. BOB KEENAN

### **STAFF PRESENT**

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

## VISITORS' LIST (Attachment 1)

## AGENDA (Attachment 2)

### COMMITTEE ACTION

#### CALL TO ORDER and ROLL CALL

00:00:00 Rep. Hunter called the meeting to order at 1:00 p.m. The secretary called roll. Sen. Keenan was excused. (Attachment 3)

#### LEGISLATIVE SERVICES DIVISION UPDATES

##### General Fund Revenue Update

00:00:55 Ms. Fox discussed the General Fund Revenue Update. (Exhibit 1)

##### Staff Update - Susan Fox

00:01:40 Ms. Fox discussed the upcoming retirements of Tori Hunthausen and Dave Bohyer; the FTE position for the Budget and Analysis Assistant for Jennifer Simmons; and the position for a Senior Business Analyst in the IT Department.

##### SSR Project Update - Susan Fox

00:04:00 Ms. Fox gave an update on the SSR Project. (Exhibit 2)

##### Initiative and Referenda Status -- Todd Everts

00:09:51 Mr. Everts reported on the status of Secretary of State's Initiative and Referenda. (Exhibit 3)

##### Committee Questions of Mr. Everts

00:10:45 Sen. Buttrey asked about initiatives that have conflicts.

00:12:18 Rep. Hunter asked who tracks the initiatives that have passed but have conflicts.

00:13:21 Sen. Buttrey asked if a bill draft is needed to come up with a fix, and if a bill doesn't get passed that would resolve the issue, what happens next.

##### Rules Subcommittee Report - Rep. Bennett, Presiding Officer

00:14:47 Rep. Bennett gave a synopsis of the Rules Subcommittee meeting. He said that the committee is planning on meeting the morning of August 24th.

00:15:45 Sen. Facey said if other legislators have ideas for possible rules to please present them to the subcommittee.

00:17:21 Rep. Hunter discussed revenue and appropriations transmittal happening on the same day.

#### LEGISLATIVE BRANCH OVERSIGHT OF EXECUTIVE BRANCH AGENCIES

##### Administrative Rule Training - Todd Everts

00:18:00 Mr. Everts discussed the memo, Overview of Admin Rulemaking and Rule Review. (Exhibit 4)

00:24:19 Ms. Fox talked about a class on writing administrative rules at the Professional Developmental Center.

00:26:07 Sen. Buttrey said that he would like someone from the Executive Branch to come and discuss its direction on writing rules and compliance with MAPA.

00:28:00 Sen. Facey commented on rulemaking authority.

00:30:58 Sen. Sesso asked Mr. Everts about rules reflecting the intent of the legislation, the checklist, and where the authority comes from to prepare the checklist.

00:42:18 Sen. Barrett discussed the obligation of the person who wrote the bill to follow up on that bill with the agency.

00:43:25 Sen. Buttrey asked about auditing agencies to make sure that the agencies were complying with MAPA.

00:45:42 Rep. Hunter said that he would like a presentation from the Executive Branch on what direction the Governor's Office gives agency legal directors.

00:47:30 Sen. Buttrey discussed rule changes on a federal level.

00:49:58 Rep. Hunter asked about a panel presentation on rulemaking from the executive branch at the next meeting.

00:50:52 Sen. Buttrey said that he would also like to discuss having more training in rulemaking for new and current legislators.

### **Guidelines for Interim Committees -- Best Practices in Administrative Rules Objection**

#### **Polling - Susan Fox**

00:53:11 Ms. Fox ([Exhibit 5](#))

00:55:56 Method of sending poll ballot

00:56:00 Method of response

00:56:10 What to include with the ballot

00:56:50 Include agency response with ballot mailing

00:57:44 Sen. Buttrey asked about the decision item, "what to include with ballot" where we have agency response, do we need to add "if available" behind it just so we don't hardline something and then have to wait for it if they are not willing to do it in a timely manner.

00:58:08 Numbering of ballots

00:59:20 Reminder email of impending deadline/late ballots accepted

01:00:20 Deadline to be returned

01:01:30 Rep. Bennett talked about the State Administration and Veterans' Affairs Interim Committee's discussion on deadline for ballots to be returned.

01:02:15 Allow legislator to change ballot

01:05:31 Online Materials

01:06:50 Sen. Buttrey recommended that agency response be added to the online data.

01:07:04 Rep. Hunter likes the idea of having a more common way of displaying the online data on the website.

01:07:19 Authentication

01:08:01 Rep. Bennett said there is a need for the chair and vice chair to have the ability to resolve issues as they come up.

01:09:26 What was finally published by SOS with the rule adoption notice

01:10:11 Time from proposal to adoption notice

01:11:59 Committee time spent on the issue

01:12:45 Costs and staff time

01:15:30 Rep. Hunter asked Ms. Fox to draft a new Best Practice document.

01:16:29 Ms. Fox discussed potential statutory changes to language that was found to be confusing in 2-4-403, MCA.

01:21:26 Sen. Facey asked how the poll was counted if the ballots were not returned.

01:24:52 Rep. Hunter asked about the MAPA process.

01:26:34 Rep. Bennett said that he would like staff to reach out to the Secretary of State's Office on how they feel about the possibility of running this process.

01:28:53 Rep. Hunter asked Ms. Fox to prepare a bill draft on changes to the polling process to be presented at the next meeting.

01:29:32 Rep. Hess asked if it would be possible to have a representative from the Secretary of State's Office at the August meeting.

01:30:09 Rep. Hunter asked if the committee wanted a bill draft to review and suggested that the best practice pieces be incorporated.

01:30:52 Mr. Everts discussed rules within the scope of the authority and that the poll was a mechanism to assist the Legislature in weighing in on whether a rule was promulgated within the bounds of the statute.

01:32:41 Sen. Buttrey discussed changing the process to save money.

**BREAK** (reconvened at 2:50 p.m.)

#### **LEGISLATOR COMPENSATION - Susan Fox**

01:49:24 Ms. Fox gave a presentation on Overview of Montana State and Legislator Pay Information ([Exhibit 6](#)); History of Legislator Salary Rates ([Exhibit 7](#)); Legislative Compensation; Other Payments and Benefits ([Exhibit 8](#)); and Legislative Compensation and Living Expense Allowances ([Exhibit 9](#)).

#### **Committee Questions and Discussion**

02:03:11 Rep. MacDonald asked if taxes are being paid on the allowance and on the voucher constituent expense.

02:06:08 Sen. Sesso asked about health insurance in other states.

02:06:24 Ms. Fox referred Sen. Sesso to Exhibit 8, information under *Insurance benefits/health*.

02:07:42 Rep. MacDonald asked about lifetime pension for legislators.

02:08:23 Rep. Hunter asked about the adequacy of per diem for non-Helenans.

02:11:04 Rep. Hunter discussed health benefits and wages.

02:13:05 Sen. Sesso said he is in favor of a bill that would deal with the rate of pay.

02:16:38 Rep. Bennett asked about positions that exist in band 7.

02:18:15 Rep. Hunter suggested collecting data on the average wage in Montana.

02:19:08 Rep. MacDonald discussed the idea of taking this to some other index within the system.

02:19:45 Rep. Berglee said it would be nice to see wages tied to something outside of government.

#### **Motion**

02:23:26 Sen. Driscoll moved to direct staff to draft a bill that would increase legislative pay to the average hourly wage growth of Montana workers.

#### **Committee Discussion**

02:23:50 Sen. Facey asked if we need to add "establish a new base", and phase it over a

- couple of sessions.
- 02:23:55 Sen. Driscoll asked if she should restate her motion to start with a base of the current state's average weekly wage and index it to the wage growth in Montana.
- 02:24:53 Rep. Berglee said he would like to see all of the benefit, such as the technology allowance and constituent account, health care, just to make sure that is taken into account when comparing the average wage.
- 02:25:06 Rep. Hunter asked Rep. Berglee to clarify his point.
- 02:25:56 Rep. Berglee said that he was referring to the private sector and the average Montana wages, just whatever they use for their index to compare those wages, if it is just payment or also includes benefits. He would like to see some adjustment off of benefits and it doesn't have to be an exact comparison.
- 02:26:10 Restated motion: Staff prepare a bill draft that would reflect a base based upon hourly average wage for Montana industries as represented in the chart and indexed to the average wage growth.

### **Vote**

- 02:26:37 The motion passed unanimously by voice vote, with Sen. Keenan absent.

### **Current biennium funds for legislator participation in NCSL and CSG**

- 02:28:00 Ms. Fox ([Exhibit 10](#))

### **Committee Questions**

- 02:29:44 Rep. Hunter asked about the total that is in excess of what the need is.
- 02:30:08 Ms. Fox said that \$16,000 would do it.

### **Motion**

- 02:30:29 Sen. Facey moved to allow \$15,000 to be transferred and ask that the Chair and Vice Chair divide that in ways they see appropriate between caucus leaders and mindful of the fact that one caucus is larger than the other caucus.

### **Committee Discussion**

- 02:31:04 Rep. Hunter discussed limiting legislators in his caucus to \$1,200 per person. Being able to provide the full cost of attendance would be something that the House caucus would welcome.

### **Vote**

- 02:31:41 The motion passed unanimously by voice vote, with Sen. Keenan absent.

### **Guidelines for SB 283 constituent accounts**

- 02:32:18 Ms. Fox ([Exhibit 11](#))

### **Options for primary stipends**

- 02:46:59 Ms. Fox discussed the different options. Rep. Bennett and Sen. Facey supported Option A. Rep. Hunter and Rep. Knudsen liked the idea of reimbursement forms.
- 02:47:17 Rep. MacDonald asked if the stipend would be \$3,000 every two years and taxable up front.
- 02:53:27 Rep. Hunter asked if there was consensus on moving forward with Option A and Option C both being available, and leaving Option B aside.

- 02:53:43 Allow salary to be a reimbursable expense  
 02:53:47 Rep. Hunter said that consensus of that committee is a no.
- 02:54:09 Offset the IT allowance  
 02:54:17 Sen. Facey discussed the idea of going to a system where a legislator gets a computer once every four years.
- 02:55:27 Rep. Hunter discussed the proposal that was adopted where an IT figure was rolled in along with other amounts adding up to the \$3,000 figure.
- 02:57:20 Rep. Knudsen asked about getting rid of the IT allowance.
- 02:58:58 Ms. Fox said start with unused funds from the last biennium and if it is in the feed bill, make sure that it is available starting January 1 or May 1.
- 03:01:49 Jennifer Simmons, Financial Services Manager, explained that the appropriation from the feed bill terminates June 30, 2016, and any remaining funds left over of that appropriation could be allocated to the Legislative IT Reserve Fund, based on the approval of the Speaker and the President, or revert back to the general fund. Ms. Simmons said that for new legislators coming in, the previous feed bill is available through December 30 because the bill is written to say it's available to the 64th Legislature. The actual appropriation sits on the books through June 30 just by the nature of it being an appropriation.
- 03:07:48 Rep. Hunter said he would like to go back to the original question, which is, the overall costs of this new bill in terms of the money that's being provided to legislators in 2017 is \$450,000. In the feed bill currently resides an IT allowance of \$180,000. So the question is, if we're going to provide \$450,000 in the feed bill, do we want to retain the \$180,000 additional IT allowance line in the budget.
- 03:08:04 Sen. Sesso discussed the options for paying for attending the conferences and supports the idea of rolling the \$180,000 into paying the \$450,000. He also discussed conference attendance and is not supportive of paying for the conferences because of the expense of the registration fees, travel, and rolling the technology fee into the \$3,000.
- 03:11:37 Rep. Knudsen asked if that technology allowance was put in place by a separate bill. Ms. Fox said it was a unilateral Legislative Council act that put it in the first place and is not in statute.
- 03:14:53 Sen. Sesso asked about the \$735,000 appropriated and the \$69,000 to fund the two organizations.

**Motion**

- 03:15:55 Sen. Buttrey moved to roll the \$180,000 from the IT allowance into the \$3,000 constituent account and leave Program 21 and the dues revenue separate.

**Committee Discussion**

- 03:16:41 Ms. Fox said that once the budget is done, she can report on the actual numbers that could be used for new legislators or legislators who are eligible for the allowance.
- 03:17:31 Sen. Facey said that for the record, the Council is eliminating the \$1,500 technology stipend.

**Vote**

- 03:17:50 The motion passed unanimously by voice vote, with Sen. Keenan absent.

- 03:18:01 Leadership Funds  
Rep. Hunter discussed leadership funds: \$10,000 for Speaker and President and \$5,000 each for minority leader.
- 03:18:16 Sen. Buttrey said that his motion was specific to not include rolling those dollar amounts and leaving those dollars where they are.
- 03:18:26 Rep. Hunter said that his discussion was about the amounts for CSG, NCSL, and those items. He asked Sen. Buttrey is he intended that the leadership funds be included in his motion in that sense?
- 03:18:47 Sen. Buttrey said only to the effect that they would not be rolled into that constituent account. His intent was that the money remain where it is.
- 03:18:58 Rep. Hunter said that the leadership funds should be proportional to the membership in the bodies.
- 03:19:33 Rep. Knudsen asked where those numbers came from in first place.
- 03:21:40 Rep. Hunter said that it was his understanding that that money was available for use by the caucus under leadership discretion.
- 03:24:01 Feed bill Issue
- 03:24:23 The issue of the tax years and use it or lose it  
Ms. Fox said that she could create a rule that warns legislators that they can use it on a tax year basis, that they don't have to do it all at once, that they could split it up between the two years, but at the end of their term, if they haven't used all the money, they don't have a claim to it.
- 03:24:56 Sen. Facey supports a use it or lose it type of situation.
- 03:25:17 Rep. Hunter asked if the members were content with Ms. Fox proceeding with the rules draft.

### **GUIDELINES FOR LEGISLATIVE APPOINTMENTS**

- 03:25:55 Ms. Fox **(Exhibit 12)**

### **Questions for Amy Carlson on the General Fund Revenue Update #5**

- 03:30:11 Rep. Knudsen asked about the number that is being used for revenue estimates for oil and gas production and the price per barrel that is used for budget estimates.
- 03:31:14 Amy Carlson referred the committee to the FY 2016 General Fund Revenue Update #5. **(Exhibit 1)**

### **Television Montana (TVMT) - Susan Fox**

#### **Remote Testimony**

- 03:34:50 Ms. Fox **(Exhibit 13)**

#### **Committee Questions**

- 03:53:14 Sen. Buttrey discussed his concerns about the amount of time for committee meetings, control over witnesses, and the costs.
- 03:54:20 Rep. Knudsen discussed the difficulty of getting his constituents to Helena to testify.

03:55:40 Sen. Buttrey said that remote testimony is a good idea but will take serious planning efforts to figure out the logistics.  
03:56:20 Rep. Hunter said that he would like to take this topic up for more discussion tomorrow.  
03:56:50 Rep. Bennett expressed his concerns regarding usability of the meeting rooms during session.

**RECESS**

03:58:02 Rep. Hunter recessed the meeting at 4:59 p.m., to reconvene on May 19, 2016, at 8:30 a.m.

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