



# Legislative Council

## 65th Montana Legislature

### SENATE MEMBERS

EDWARD BUTTREY  
TOM FACEY  
JP POMNICHOWSKI  
SCOTT SALES  
JON SESSO  
FRED THOMAS

### HOUSE MEMBERS

SETH BERGLEE  
JENNY ECK  
WYLIE GALT  
AUSTIN KNUDSEN  
SHANE MORIGEAU  
CASEY SCHREINER

### COMMITTEE STAFF

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

## MINUTES LOG

June 6, 2017  
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.

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

SEN. EDWARD BUTTREY  
SEN. TOM FACEY  
SEN. JP POMNICHOWSKI  
SEN. SCOTT SALES  
SEN. JON SESSO  
SEN. FRED THOMAS

REP. JENNY ECK  
REP. SHANE MORIGEAU  
REP. CASEY SCHREINER

### COMMITTEE MEMBERS EXCUSED

REP. SETH BERGLEE  
REP. WYLIE GALT  
REP. AUSTIN KNUDSEN

### 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:

- elected the Presiding Officer and the Vice Presiding Officer;
- adopted the Biennial Operating Plans for Program 20 (Legislative Services) and Program 21 (Interim Committees and Activities) for FY 18 and 19;
- approved allowing proxy voting for interim committees;
- approved the Operating Plan Change;
- adopted the MCA/Session Publication prices;
- appointed NCSL and CSG committee members;
- requested that the Revenue and Transportation Interim Committee monitor the study of construction costs in the HB 473 study;
- assigned HJ 20 to the Children and Families Health and Human Services Committee and authorized the allocation of additional resources to the CFHHS committee, and recommended that the chairs of both the CFHHS and the EAIC consider forming a subcommittee to address the transparency issue as both a policy and a fiscal matter;
- accepted staff recommendations for interim committee studies with the exception that SJ 32 be assigned to the Economic Affairs committee; and
- approved the appointment of Senators Sesso and Sales and Representatives Schreiner and Galt to the TVMT Advisory Committee.

### **CALL TO ORDER and ROLL CALL**

00:00:05 Sen. Thomas called the meeting to order at 9:05 a.m. The secretary called roll. Rep. Berglee, Rep. Galt, and Rep. Knudsen were excused. ([Attachment 3](#))

### **ELECTION OF OFFICERS**

00:01:49 Sen. Facey nominated Sen. Thomas as Presiding Officer. The nomination was accepted unanimously by voice vote.

00:02:26 Sen. Sesso nominated Rep. Eck as Vice Presiding Officer. The nomination was accepted unanimously by voice vote.

### **DIVISION UPDATES**

#### **Executive Director updates - Susan Fox**

##### **TVMT RFP**

00:03:10 Ms. Fox announced that an RFP was opened in May. They received only one proposal, and the RFP was awarded to Montana PBS.

00:03:51 Aaron Pruitt, Content Director, Montana PBS, provided comments on what they plan to provide to the broadcasting of legislative programs.

##### **Questions**

00:08:46 Sen. Facey asked Ms. Fox if the costs for broadcasting services were provided in the RFP.

00:09:12 Ms. Fox said that the maximum amount was in the proposed budget and that amount was accepted in Montana PBS' proposal.

- 00:09:30 Sen. Thomas asked Mr. Pruitt if he understood the do's and don'ts in covering the legislative process in the capitol building.
- 00:14:53 Ms. Fox discussed the use of the TVMT Advisory Committee in the committee's strategic planning. She asked the committee if they would like to continue with the Advisory Committee.
- 00:15:49 Sen. Thomas asked Sen. Sesso to find the three volunteers to serve on the Advisory Committee.
- 00:16:09 Ms. Fox discussed the relationship with Charter Communications, in providing Channel 191 on the cable network.

### **Option 2 and SB 240**

- 00:16:49 Ms. Fox explained that Option 2 allowed for reimbursement to those legislators who chose not to be on the state health insurance plan. An exception was written into SB 240 in hopes that if the federal law changed, the state could reimburse legislators. It also put in an element where term life insurance could be reimbursed. A letter from the Executive Director of Legislative Services Division was sent to Senators Tester and Daines regarding that issue and the same letter would be sent to Rep. Gianforte when he has an office in Washington, D.C.
- 00:18:28 Ms. Fox discussed the issue of payment timing that was brought up by Sen. Connell.
- 00:19:13 Sen. Buttrey discussed the change in how the life insurance is being handled and that those payments will go out retroactive. He said he was hoping that, based on passage of the SB 240, the state would decide to go back and reimburse the secondary plans.

### **Constituent Services Allowance**

- 00:19:48 Ms. Fox ([Exhibit 1](#))

### **Questions**

- 00:22:01 Sen. Buttrey asked about reimbursements coming out of the primary account and the secondary account.
- 00:23:04 Sen. Buttrey asked about the IT reimbursement from 2015 and the start of some legislators using the IT reimbursement at the start of the 2017 session.
- 00:23:41 Sen. Thomas said that from the committee discussion, the brochure is approved for distribution with changes as discussed.

### **Legislative Services Staff Updates**

- 00:24:07 Ms. Fox discussed staffing changes: Molly Petersen, Publications Coordinator; Sonja Nowakowski, Research Director; open positions for a research analyst, an attorney, an operations manager; a committee secretary; and an IT position.

### **Legal Office updates**

#### **Codification**

- 00:26:28 Mr. Everts gave an update on the codification process. He distributed an article "Just Push a Button" ([Exhibit 2](#)) and explained the use of the new codification software.

### **Litigation**

00:31:34 Mr. Everts gave an update on the lawsuit involving Sen. Fielder and her public records.

### **Questions**

00:33:52 Sen. Thomas asked about the contract costs for reviewing the email material.  
00:34:02 Sen. Thomas asked if the requested emails were fulfilled, will that end the lawsuit.  
00:34:54 Sen. Facey asked to what degree is a legislator obligated to pay for part of the legal costs.  
00:35:57 Sen. Sesso said about personal responsibility for legal costs if the lawsuit goes the other way.  
00:41:20 Rep. Schreiner said in a circumstance that a legislator comes out on the losing end of a legal situation, at whose authority would it be to appeal a court's decision?  
00:43:03 Sen. Thomas said that the committee should keep reviewing this issue.

### **Initiatives**

00:44:24 Mr. Everts discussed the Secretary of State's ballot initiatives. **(Exhibit 3)**

### **COUNCIL BUSINESS**

#### **Program 20 and 21 Budget Operating Plan FY 18-19 approval**

00:45:46 Ms. Fox gave a presentation on Program 20. **(Exhibit 4)**

### **Motion/Vote**

00:47:06 Sen. Facey moved to adopt the Biennial Operating Plan, Program 20. The motion passed unanimously by voice vote.

00:47:56 Ms. Fox gave a presentation on Program 21. **(Exhibit 5)**

### **Motion/Vote**

00:48:40 Sen. Buttrey moved to adopt the budget for Program 21. The motion passed unanimously by voice vote.

00:49:29 Ms. Fox discussed the document "Program 21, Interim Committees and Activities. **(Exhibit 6)**

### **Discussion on the use of Proxy Votes**

00:50:00 Rep. Eck asked about a discussion on Proxy Voting.

00:50:15 Sen. Thomas discussed having a motion to allow proxies.

### **Motion/Vote on Proxy Voting**

00:50:20 Sen. Sesso moved that the Legislative Council allow and recognize proxies in the voting process for the 2017-18 interim. The motion passed unanimously by voice vote.

### **FY 17 Operating Plan Change**

00:51:05 Ms. Fox discussed the memo dated May 23, 2017 from Jennifer Simmons,

Financial Services Manager. [\(Exhibit 7\)](#)

Motion/Vote

00:52:45 Sen. Buttrey moved to approve the FY 17 operating plan change as presented. The motion passed unanimously by voice vote.

**Set prices for MCA/session publications**

00:53:08 Mr. Everts [\(Exhibit 8\)](#)

Motion/Vote

00:54:45 Sen. Facey moved to adopt the proposed 2017 Montana Code Annotated prices as presented. The motion passed unanimously by voice vote.

**Appointments of NCSL and CSG committee members**

00:55:25 Ms. Fox [\(Exhibit 9\)](#)

**Break** (reconvened at 10:17 a.m.)

**National Conference of Commissioners on Uniform State Laws (NCCUSL) appointment process**

01:12:35 Mr. Everts discussed the NCCUSL appointment process.

Questions

01:15:04 Sen. Buttrey asked about the next meeting date for the Uniform Commission.

**CSG West - River Governance**

01:16:02 Sen. Thomas referred the committee to Exhibit 9. He asked Sen. Sales if he wanted Sen. Buttrey to serve on the River Governance.

01:17:01 Rep. Eck asked about the purpose of the River Governance.

01:17:33 Joe Kolman, Environmental Policy Director, gave a presentation on the River Governance Council on River Governance.

Discussion

01:18:02 The committee discussed appointments to the River Governance Committee.

01:23:52 Sen. Thomas suggested having a first and a second choice and leave it up to the President of the Senate and the Minority Leader to identify the 2 House members.

01:24:18 Rep. Eck said that her second choice is Rep. Jacobson.

01:24:30 Sen. Thomas said that without objection, Sen. Buttrey, Sen. Vuckovich, Rep. Gunderson, Rep. Perry, Rep. Jacobson and Rep. Shaw are tentatively on the River Governance Committee.

Motion

01:25:12 Sen. Sales moved to appoint Senators Buttrey, Vuckovich; Representatives Gunderson, Perry, Jacobson, and Shaw to CSG West - Legislative Council on River Governance.

### Labor and Economic Development Committee

01:25:24 Sen. Thomas asked Sen. Buttrey if he is willing to serve on the Labor and Economic Development Committee.

### Motion/Vote

01:25:31 Sen. Thomas moved that Sen. Buttrey serve on the Labor and Economic Development Committee. The motion passed unanimously by voice vote.

### Education and Workforce Development

#### Motion/Vote

01:26:21 Sen. Thomas moved that Rep. Dudik and Sen. Buttrey serve on the Education and Workforce Development Committee. The motion passed unanimously by voice vote.

### Vote on Sen. Sales' motion

01:27:00 The motion to adopt the middle column as adjusted passed unanimously by voice vote.

## **REVIEW OF INTERIM STUDY POLL RESULTS AND RECOMMENDATIONS**

### **Presentation of the Interim Study Poll Results** - Sonja Nowakowski, Research Director

01:27:42 Ms. Nowakowski ([Exhibit 10](#))

### Discussion

01:34:36 Mr. Everts explained the responsibilities of the Legislative Council regarding assigning or not assigning the studies to the interim committees.

01:35:19 Sen. Sesso asked Ms. Nowakowski to explain the difference between SJ 21 and SJ 32.

01:37:38 Sen. Sesso discussed the workload of the Children and Families Committee and suggested reassigning SJ 32 to the Economic Affairs Committee.

01:39:07 Sen. Facey and Rep. Schreiner supported Sen. Sesso's suggestion.

01:40:30 Sen. Thomas said that he will pencil in the change with the agreement from the committee that SJ 32 be assigned to the Economic Affairs Committee.

01:41:13 Sen. Thomas discussed an operations handbook developed by the Legislative Council that identifies everything that could be taken out of statute, and the development of an email protocol, what is a public record and what is not.

01:43:28 Sen. Thomas asked Sen. Sesso about highway construction costs.

01:43:36 Sen. Sesso said that the passage of the safety act called for an audit to be done by the Legislative Audit Division. There is no study resolution that is specific to Sen. Thomas' question.

01:45:19 Sen. Thomas said that the Revenue and Transportation Interim Committee would likely be the committee to study that issue.

01:45:35 Ms. Nowskowski said that HB 473 requires an audit of the Department of Transportation and a presentation of that audit to RTIC for consideration of recommendations contained in the audit.

01:45:57 Sen. Thomas requested that the construction costs issue be studied during the 2017-18 interim.

01:46:15 Sen. Sesso said that any accountability and a reporting and discussion of the

escalating transaction costs to get roads and bridges repaired would be in the best interest of the dollars made available for those infrastructure projects.

Motion

- 01:46:48 Sen. Facey moved that the Legislative Council ask the Revenue and Transportation Interim Committee to follow the study of construction costs this interim.
- 01:47:25 Sen. Sesso suggested that the Council direct the RTIC to take on the responsibility of following the requirements set forth in HB 473.
- 01:48:35 Sen. Sesso said that the study of transparency is an important issue and he would like the Council to consider allocating or freeing up some money from the Legislative Council's emerging issues account to be made available to the CFHHS and to ask the directors of LSD to work with LFD in how to move additional resources to accommodate the needs of the CF committee.
- 01:55:00 Ms. Fox spoke to Senators Facey and Buttrey's concern regarding forming subcommittees with public members and whose authority it is to pay the expenses of those public members.
- 01:55:41 Rep. Morigeau asked about forming a special committee where EAIC and CFHHS could tag team on the transparency issue.
- 01:58:16 Sen. Thomas said that he heard a recommendation that the EAIC and CFHHS get together and form a work group with members from each committee.

Motion/Vote

- 01:59:33 Sen. Sesso moved that the Legislative Council accept the staff recommendation to assign HJ 20 to the Children and Families Health and Human Services Committee and that the Executive Director of the Legislative Services Division be authorized the discretion and flexibility to allocate additional resources to the CFHHS committee and to also recognize that the chairs of both the CFHHS and the EAIC consider forming a subcommittee to address the transparency issue from both a policy and a fiscal matter associated with the topic.

Vote

- 01:59:45 The motion passed unanimously by voice vote.
- 02:01:31 Sen. Thomas asked about the HB 661 study.
- 02:02:34 Amy Carlson, Legislative Fiscal Analyst, discussed HB 661.
- 02:05:16 Sen. Thomas recommended that the Legislative Fiscal Committee look at the pay plan issue and that the Legislative Audit Committee look at the structure of how state government is audited.
- 02:05:43 Sen. Thomas discussed the studies assigned to the Energy and Telecommunications Committee and suggested looking at the energy policy in Montana with respect to Colstrip, the export of energy, keeping the nonregulated costs of energy down.
- 02:07:23 Sen. Sesso discussed the workload of the Energy and Telecommunications Committee.

02:08:10 Sen. Thomas said that with no objection from the committee, the recommendation that the energy issue will be added to the workload of the Energy and Telecommunications.

### **HJ 18 - Study tax increment financing**

02:09:33 Sen. Thomas referenced the email correspondence received regarding the HJ 18 study. **(Exhibit 11)** He said that committee members of the Revenue and Transportation Committee had recommended that the TIF issue be assigned to the RTIC committee.

02:09:21 Rep. Morigeau and Sen. Buttrey supported that recommendation.

### **Sponsor Testimony**

None.

### **Public Testimony**

None.

### **Motion**

02:12:05 Sen. Buttrey moved to accept staff recommendations for assignment of studies to the interim committees with the exception that SJ 32 be reassigned to the Economic Affairs Interim Committee.

### **Discussion**

02:12:31 Sen. Thomas discussed the study of prescription drug pricing (HJ 17).

02:12:52 Sen. Buttrey said that studies are assigned to interim committees and those interim committees can then decide whether or not to study them.

### **Vote**

02:13:49 The motion passed unanimously by voice vote.

### **PUBLIC COMMENT on any matter under Council's jurisdiction**

None.

### **LEGISLATIVE FISCAL DIVISION UPDATES**

02:16:31 Ms. Carlson distributed and discussed Update #6 of the General Fund Revenues **(Exhibit 12)**. She also distributed an article from The Washington Post "Americans are taking their sweet time paying taxes, and the government is running out of cash". **(Exhibit 13)**

### **Questions**

02:23:52 Rep. Morigeau asked about the governor's estimates versus the Legislative Fiscal Division's estimates.

### **STRATEGIC PLANNING SESSION**

02:26:22 Ms. Fox discussed the process for the two-day Strategic Planning Session coming up in the fall. She referred the committee to the document "Suggested Meeting Dates, Round 2". **(Exhibit 14)**



### Discussion

- 02:27:23 Rep. Eck discussed using other platforms for emails, using a third-party commission or council to set legislator compensation, and researching what other states are doing on legislator pay issues.
- 02:30:19 Sen. Thomas discussed establishing an email protocol and identifying what a public record is and how that is kept.
- 02:32:01 Rep. Schreiner asked if the handbook that Sen. Thomas referenced would be a handbook that people could refer to for best practices for legislation carried by individuals.
- 02:34:40 Rep. Eck asked if there was a committee who makes decisions regarding the state health insurance and is there someone from the legislative branch who is on that committee.
- 02:35:05 Ms. Fox said that the state insurance is administered by the Health Care Benefits Division in the Department of Administration and that Ms. Fox is the legislative representative.

### TVMT

- 02:38:25 Sen. Thomas asked about who the members are that will serve on the TVMT committee.
- 02:38:40 Sen. Sesso said that he and Sen. Sales will be on the committee from the Senate side and Rep. Schreiner and Rep. Galt on the House side.

### **Proposed meeting dates - Round 2**

- 02:38:48 The committee discussed meeting dates in September for the Strategic Planning Session. It was decided to go with September 6 and 7, and find out where the conflicts are.

### **Update on SSR Project**

- 02:42:38 Ms. Fox provided an update of the codification portion of the SSR contract. The next project is developing a system that will help with both session and interim committees with the minutes. The To-Be design is done and by December they will be able to use the interim secretaries to test that system.
- 02:44:01 Sen. Buttrey requested that updates be provided at the next meeting.
- 02:44:05 Ms. Fox discussed working on the design phase of the bill drafting system, replacing WordPerfect with Word. Unrelated to the SSR Project, Legislative Services Division will be updating and upgrading the vote system for both the House and the Senate.

### **ADJOURNMENT**

- 02:47:42 With no further business before the committee, Sen. Thomas adjourned the meeting at 11:51 a.m.