

**Council Senate Members**

BOB KEENAN--Vice Chair  
VICKI COCCHIARELLA  
BRENT CROMLEY  
DUANE GRIMES  
JON TESTER  
FRED THOMAS



**Council House Members**

KIM GILLAN--Chair  
ROY BROWN  
GEORGE GOLIE  
JEFF LASZLOFFY  
DOUG MOOD  
DAVID WANZENRIED

## Montana Legislative Council

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# MINUTES

January 16, 2004

Room 102, State Capitol  
Helena, Montana

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Committee tapes are on file in the offices of the Legislative Services Division.

**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**

REP. KIM GILLAN, Chair  
SEN. BOB KEENAN, Vice Chair

SEN. DUANE GRIMES  
SEN. JON TESTER  
SEN. FRED THOMAS

REP. ROY BROWN  
REP. GEORGE GOLIE  
REP. JEFF LASZLOFFY  
REP. DOUG MOOD  
REP. DAVID WANZENRIED

### **COMMITTEE MEMBERS EXCUSED**

SEN. COCCHIARELLA  
SEN. CROMLEY

## **STAFF PRESENT**

Lois Menzies, Executive Director, Legislative Services Division (LSD)  
Greg Petesch, Director, Legal Services Office, LSD  
Dawn Field, Committee Secretary, LSD

## **VISITORS' LIST & AGENDA**

Visitors' list, Attachment #1.  
Agenda, Attachment #2.

## **COMMITTEE ACTION**

- approved the September 22, 2003, minutes as written;
- approved the audio minutes pilot project for the 2005 Legislative Session;
- approved the allocation of \$5,000 for Montana's continued participation in the Legislative Council on River Governance;
- approved the proposed changes in rules, procedures, and guidelines for interim committees;
- approved the proposed changes in procedure for review, request, and drafting of agency legislation;
- adopted the proposed dates for party caucuses, new legislator orientation, and continuing education; and
- recommended that the Montana Board of Regents continue to keep the Economic Affairs Interim Committee and the Postsecondary Education Policy and Budget Subcommittee (PEPB) informed of its economic development efforts.

## **CALL TO ORDER AND ROLL CALL**

REP. GILLAN called the meeting to order at 8 a.m. Roll call was taken; Senators Cocchiarella and Cromley were excused. The Council approved the September 22, 2003, minutes as written unanimously on a voice vote.

## **INTERACTIVE VIDEO OPPORTUNITIES**

### **John Zauher, Director, Health Informatics/Telehealth Services, St. Vincent Healthcare, Billings.**

Mr. Zauher said his interest in expanding videoconferencing opportunities in Montana grew after two recent events held at the Mansfield Center in which he saw the need for expanded technology and network capabilities in Montana. He said he was curious in particular about the capabilities in the Capitol and met with REP. GILLAN and Mike Foster, St. Vincent's Healthcare, to discuss the logistics of expanding existing capabilities to include videoconferencing. Mr. Zauher said this technology could greatly increase the access and participation of the Montana people in the legislative process. As a result of that meeting, he initiated contact with Stephen Maly, Helena Civic Television (HCTV), to discuss his ideas.

Mr. Zauher presented *VIDEOCONFERENCING OPPORTUNITIES IN MONTANA* (EXHIBIT #1) and discussed:

- the three primary uses for videoconferencing;
- the value of videoconferencing;
- the future of videoconferencing;
- a map of the Montana Healthcare Telecommunications Alliance (MHTA); and
- a map of the Partners in Health Telemedicine Network.

REP. GILLAN asked Mr. Maly to comment on the issue of blending the capabilities of the existing TVMT system with videoconferencing. Mr. Maly said HCTV is under contract to the LSD to expand TVMT's reach of coverage of the interim committees and session activities to a statewide audience. He reported that:

- he is working to persuade the private sector to assist with this effort;
- he is excited about the extent of the telecommunications linkages that already exist that could potentially be used for this purpose; and
- the possibility of having interactive communications between legislators and their constituents is very exciting.

REP. GILLAN referred to the Legislative Council 2003 Planning Session Summary Sheet (EXHIBIT # 10) and pointed out that Items 2 and 3 (the expansion and promotion of TVMT) were ranked as high priority items. She said she would like to establish a working group to encourage and facilitate efforts to this end. SEN. KEENAN and REP. WANZENRIED agreed to serve on a working group.

#### **VIDEO AND AUDIO MINUTES FOR SESSION STANDING COMMITTEES**

**Lois Menzies, Executive Director, LSD,** provided an update of the 2003 Video Minutes Pilot Project (EXHIBIT #2). Ms. Menzies discussed:

- the rationale for the pilot project;
- the pilot project design;
- issues such as contracted services, equipment, and staff;
- total costs and estimated savings; and
- lessons learned.

Ms. Menzies demonstrated portions of minutes recorded for:

- the Senate Natural Resources Standing Committee Meeting in Room 405 and
- the House Taxation Standing Committee in Room 152.

Ms. Menzies said when the video recording equipment worked, it worked well, and a complete, accurate, and timely record of the committee activities was created. However, because of the instability of the technology, the conclusion was that the video minutes pilot project should not be repeated or expanded. Ms. Menzies said another proposal had been prepared and would be presented by Marilyn Miller and Rosanna Skelton.

REP. GILLAN asked how the video minutes pilot project was funded. Ms. Menzies said the cost was paid from the 2001 feed bill.

**Rosanna Skelton, Secretary of the Senate, and Marilyn Miller, Chief Clerk of the House of Representatives,** presented the *AUDIO MINUTES PILOT PROJECT: 2005 SESSION*

(EXHIBIT #2) and discussed the following:

- the need for and purpose of the audio minutes pilot project;
- a description of the pilot project; and
- a cost estimate, estimated savings, and projected benefits.

SEN. GRIMES asked for clarification that under this proposal, the official record for a committee hearing or meeting would be an audio record rather than a video record. Ms. Skelton said that was correct.

SEN. TESTER asked how many committees would be using this technology in the 2005 session. Ms. Skelton said three committees in each house were covered in the 2003 pilot project and it would be doubled to 12 committees in the 2005 project. He also asked what the estimated life of the audio recordings were. Ms. Skelton said the DVDs last indefinitely if stored properly. SEN. TESTER asked if there were special requirements for storage. **Dustin Temple, Network Administrator, Office of Legislative Information Technology (OLIT),** said the recordings must be kept away from water, extreme temperatures, and magnetic fields. In response to a question from SEN. TESTER, Ms. Menzies clarified that 39 states are using audio streaming but she did not know how many were archiving those audio minutes.

REP. WANZENRIED **moved** to approve the pilot project.

SEN. TESTER asked what the source of the \$110,000 for funding the project was. Ms. Menzies said the proposal asked that the funding be taken from the Legislative Services Division portion of the 2003 feed bill. She said that approximately \$220,000 is currently available.

The **motion passed** unanimously on a voice vote, with REP. GILLAN voting by proxy for SENATORS COCCHIARELLA and CROMLEY.

Ms. Menzies said an additional potential expense that could be associated with this pilot project is bandwidth. Ms. Menzies said it was unknown how much bandwidth would be needed and that if the amount needed exceeded the amount that is currently available through the Department of Administration, LSD may be required to pay for the additional amount.

In response to a question from SEN. TESTER, **Carl Hotvedt, Information Technology Services Division, Department of Administration,** explained that bandwidth could be added incrementally at a cost of \$573 per megabit. He estimated that maximum use may cost \$5,000 per month for a total cost of \$15,000 to \$20,000 for four months.

**REQUEST FOR FUNDING ACTIVITIES OF THE COUNCIL OF STATE GOVERNMENTS'  
LEGISLATIVE COUNCIL ON RIVER GOVERNANCE**

**Sen. Tash and Rep. Gallus** distributed and discussed a memorandum prepared by **Mary Vandebosch, Research Analyst, LSD,** outlining the request for \$5,000 for participation in the Legislative Council on River Governance (EXHIBIT #4). Sen. Tash discussed:

- the history of the River Governance Council and the need for Montana's participation to ensure protection of its water resources;
- the importance of the Columbia River Basin watershed: Montana is at the headwaters of this Basin and recreation, irrigation, and power generation activities could have a tremendous impact on Montana; and
- that power generation issues are also of high importance.

Sen. Tash noted that there has previously been a \$10,000 budget for Montana's participation on the River Governance Council. While the Council is asking for \$5,000 now, it may ask for additional funds in the future. Sen. Tash closed by stating Montana must do everything within its abilities to protect its standing in this issue.

Rep. Gallus, HD 35, Butte, said he has been involved on the River Governance Council since 1999. Rep. Gallus reiterated that Montana must do its part and work with the other Council members in order to preserve the benefits of the system for the people who reside in the Northwest. He said there have been efforts of others in the nation who would like to reap the power generation benefits of the Columbia River Basin and that this would be very adverse to residential and business consumers in the Northwest.

SEN. KEENAN asked Ms. Vandenbosch if the Council on River Governance has ever had any discussion or input with the other states about the discharge at the Libby Dam projected for the spring of 2004, as it relates to the endangered species: the bull trout versus the white sturgeon. Ms. Vandenbosch said that was one of the key reasons that Montana wanted to participate. SEN. KEENAN asked if Montana would have to stand alone in the Libby Dam discharge. Sen. Tash said he did not anticipate resistance from the other states and in fact, hoped to enlist support from the other states on this issue.

SEN. KEENAN asked when the next Council on River Governance meeting was scheduled. Sen. Tash said there was not a meeting scheduled at this time.

SEN. TESTER asked when the last meeting was held. Sen. Tash said the last meeting was held in Montana in 2002. SEN. TESTER asked if Sen. Tash was confident that the other states were committed to continued funding and support of this Council. Sen. Tash said he was confident of the commitments by other states.

SEN. TESTER asked how many meetings the \$5,000 would fund. Sen. Tash said it would cover one meeting which would likely be held in Idaho and other related expenses incurred throughout the biennium.

SEN. KEENAN asked if the \$5,000 included travel expenses only, not salary. Both Sen. Tash and Rep. Gallus said they would forego salary and just be reimbursed for travel expenses only.

SEN. KEENAN **moved** to approve the request for \$5,000 for continued participation in the Legislative Council on River Governance, restricted to travel expenses only.

REP. WANZENRIED asked Ms. Menzies what the source of the funding was. Ms. Menzies said it would come from the contingency account within the interim committees and activities budget, which has a balance of about \$109,000.

Ms. Menzies asked **Greg Petesch, Director, Legal Services Office, LSD**, to discuss if a legislator can be prohibited from collecting salary while acting on legislative business. Mr. Petesch said under statute, a legislator who is on authorized legislative business is entitled to submit a claim for salary for each day of the legislative business. The legislator has the option of choosing to serve with no salary, but the decision is up to the individual legislator.

SEN. KEENAN withdrew his first motion and **moved** to approve the allocation of \$5,000 for Montana to continue to participate in the Legislative Council on River Governance.

The **motion passed** unanimously on a voice vote, with REP. GILLAN voting the proxy votes of SEN. CROMLEY and SEN. COCCHIARELLA.

### **REPORT ON SJR 32 SUBCOMMITTEE ON MEDICAL MALPRACTICE LIABILITY INSURANCE**

REP. GOLIE distributed and discussed a summary of the Subcommittee's activities up to this point (EXHIBIT #5).

### **AUDIO STREAMING DEMONSTRATION**

Ms. Menzies provided an example of audio streaming technology as used in Washington and South Dakota.

REP. GILLAN asked if the audio streaming would be available real time or delayed. Mr. Temple said most of the streaming would be available real time but in some instances, a delayed broadcast would be necessary.

SEN. TESTER asked if acoustics, specifically in the old Supreme Court Chamber, would affect the sound quality of the audio streaming. Mr. Temple said the audio streaming would be on its own sound system and would not be affected by room acoustics.

### **REVIEW, REVISION, AND ADOPTION OF LEGISLATIVE COUNCIL RULES OF PROCEDURE**

Ms. Menzies referred Council members to EXHIBIT #6 - *RULES OF PROCEDURE* and discussed proposed rule changes for Part C. Rules Governing Staff. She called the Council's attention to C-5 and said while there was not a proposed change to this rule, she felt discussion was in order because the rule has not been enforced in the past. She suggested the Council pursue one of three options:

- enforce the rule;
- repeal the rule; or
- revise the rule: rewrite the first sentence to require that enough information be provided to do two things:
  - ▶ to write a short title for the bill; and
  - ▶ to assign subject matter to the bill.

Ms. Menzies stated it was important to assign subject matter to the bill so the public has access to the information.

She suggested that a box could be included on the blue bill drafting request form that the legislator could check that says "place on hold" or "placeholder", so that staff, upon receiving that bill, would automatically hold it until additional information was received from the legislator. Ms. Menzies said this would alleviate pressure on the staffer and place responsibility on the legislator to begin forward movement of the bill draft request.

SEN. GRIMES wondered if the real issue here was the ability of the Legislative Council to plan the workload more efficiently. He said it would be better to not allow an overuse of the broad "generally revise" bills and suggested the Council set some sort of limit.

SEN. KEENAN expressed his concern that changes could result in problems and said placeholder bills serve a valuable purpose.

SEN. GRIMES offered the solution of having no limitations and leaving it to the discretion of leadership, rather than the legislators. SEN. KEENAN responded his concern was that this could unconstitutionally limit legislators' ability to represent their constituency. SEN. GRIMES said maintaining efficiency of the process was very important to constitutional rights as well.

REP. GOLIE asked if would be proper for the Rules Committee to address this issue after the upcoming election. Mr. Petesch said it was possible for the Rules Committee to propose rules for governing the session but pointed out that the vast majority of the bill draft requests will have already been made. He said the real issue is: whether the Council wants staff to enforce this rule or to continue on as it has been.

REP. GILLAN asked to table this issue for discussion at a later time.

In discussion of Rule C-7.1 (4b), REP. GILLAN asked who would make the decision to place the bill on hold: the drafter or the legislator. Mr. Petesch said the legislator always controls the bill and that this rule simply tries to address what happens when the drafter does not ever receive additional information from the legislator.

REP. GILLAN asked if the Council wanted to finalize the proposed rule changes or wait until the March meeting to allow for further consideration. SEN. KEENAN said he was uncomfortable with where these rules come from, what authority they have, and what say the Legislative Council has in these rules. He recommended this matter be placed on the March meeting agenda.

REP. GOLIE commented that the Council must provide not only guidance but enforcement of the rules. He said the legislators can be better prepared in order to allow staff to be more efficient, resulting in a more efficient and smooth-running session.

REP. GILLAN said the adoption of the proposed rule changes would be delayed until the March meeting.

#### **INTERIM COMMITTEE REVIEW OF AGENCY LEGISLATION**

Ms. Menzies asked the Council members to review *RULES, PROCEDURES, AND GUIDELINES FOR INTERIM COMMITTEES* (EXHIBIT #7) and noted the proposed changes

would require the interim committees to have their work completed by September 15. Ms. Menzies said the rationale for this change was to make certain that committee work did not interfere with the bill drafting process.

Ms. Menzies also pointed out the proposed change in language to review of agency-proposed legislation.

SEN. TESTER **moved** to adopt the proposed procedure changes for interim committees. The **motion passed** unanimously on a voice vote.

Ms. Menzies asked the Council members to review *PROCEDURE FOR REVIEW, REQUEST, AND DRAFTING OF AGENCY LEGISLATION* (EXHIBIT #8) and said these proposed changes would affect the procedures used by interim committees for reviewing agency legislation.

Ms. Menzies noted an agency bill will be "by request of" the executive branch agency and that the interim committee only serves as the entity to request that the bill be drafted. She also noted that the decision to allow the bill to be drafted does not mean the bill is endorsed by the interim committee, only that the committee is allowing it to be brought forward for drafting.

SEN. KEENAN **moved** to adopt the proposed procedure changes for agency legislation. The **motion passed** unanimously on a voice vote.

Ms. Menzies said LSD staff would like feedback on how interim committees ought to go about meeting their statutory responsibilities for review of agency legislation. Ms. Menzies said staff would like feedback on whether the current system is sufficient and meaningful and whether additional meetings are needed to allow committees more time to review legislation.

REP. GILLAN suggested adding this issue to the March agenda and asked members to take the time to discuss this with interim committee members and get feedback from them before making a decision.

### **ADOPTION OF DATES: PARTY CAUCUSES, NEW LEGISLATOR ORIENTATION, AND CONTINUING EDUCATION**

Ms. Menzies referred Council members to *SELECTION OF CAUCUS, ORIENTATION, AND CONTINUING EDUCATION DATES* (EXHIBIT #9) and briefly discussed the proposed dates.

REP. GILLAN said it was her understanding that the Law School for Legislators was to be reformatted. Ms. Menzies said that providing rules training for legislators was the top ranking item identified by the Council and that the Law School could be converted to rules training.

SEN. TESTER **moved** to adopt the proposed dates for party caucuses, new legislator orientation, and continuing education. The **motion passed** unanimously on a voice vote.

### **SEPTEMBER PLANNING SESSION ACTION ITEMS**

Ms. Menzies discussed the results of the poll conducted after the Legislative Council 2003 Planning Session (EXHIBIT #10).



REP. GILLAN suggested the action items be divided up and asked that advisors be appointed to oversee action taken and progress made with each item. REP. GILLAN made the following appointments:

- ▶ Action Item #1 (Rules training): Rep. Mood, Rep. Golie, Rep. Laszloffy, and Sen. Thomas;
- ▶ Action Items #2 and #3 (TVMT): Rep. Wanzenried and Sen. Keenan; and
- ▶ Action Items #4 and #5 (Defend legislative institution; public education): Rep. Laszloffy and Rep. Wanzenried.

REP. LASZLOFFY suggested forming a bipartisan team to attend the party conventions in an attempt to head off "legislative bashing" done at the conventions. REP. GILLAN said she thought this was a great idea and suggested sending a letter from Legislative Council or from party leadership encouraging legislative candidates to avoid criticism of the legislature as an institution. REP. GILLAN asked REP. LASZLOFFY to work with REP. WANZENRIED to finalize details. She asked them to report back in March on what actions had been taken.

REP. GILLAN suggested combining Action Items #6 (Commit resources to training), #7 (Mentorship program), and #11 (Appropriate funds to achieve goals). She asked SEN. TESTER and REP. BROWN to serve as advisors and work with Ms. Menzies on the development of these proposals. They both agreed to serve in an advisor capacity.

SEN. TESTER said he thought this was a good idea but was concerned about how to fund all of these action items. Ms. Menzies said staff would be identifying budget proposals for presentation to the Council in March and if approved, these proposals could be incorporated into the budget.

SEN. GRIMES commented that new committee chairs need training in how to properly utilize staff resources. SEN. TESTER agreed with this assessment and said it was important for not only the committee chairs but for other legislators as well, so everyone has an understanding of what the chair's duties and responsibilities are, in order support the chair. REP. GILLAN asked Ms. Menzies to have new chair training included in the March proposals.

REP. GILLAN suggested Action Items #8 (Equality between houses), #9 (Group bills), #10 (Speaker's bureau), and #13 (Stop ceding of authority) be addressed in March.

REP. GILLAN appointed SEN. CROMLEY to oversee Action Item #14 (Website improvements).

REP. GILLAN said Action Item #22 (Educate legislators on real costs of drafting bills) could be handled in bill drafting rule changes, if they were made. REP. MOOD suggested this item be put in the new legislator training. REP. GILLAN agreed this was a good idea. REP. WANZENRIED said publishing this item as an article in *THE INTERIM* would be an effective approach to educate legislators. REP. GILLAN agreed this was a good idea and asked Ms. Menzies to write the article. Ms. Menzies said LSD often is asked how much it costs to produce a bill. She said it was difficult to give a specific figure because there are so many variables involved. She said in the Planning Session, she was referring more to developing an appreciation of what is involved in producing a bill as opposed to the actual cost.

REP. MOOD suggested combining Action Items #21 (Long-term goals for future sessions) and #24 (Long-term goals for future interims). He said he was interested in working on these items. He said he was participating in the National Council of State Legislatures (NCSL) Legislators Back to School Week and would have a report for the Council in March.

#### **REQUEST FOR AMICUS BRIEF IN WHEAT V. BROWN**

No discussion or action occurred.

#### **LEGISLATIVE SERVICES DIVISION STAFF REPORTS**

**Greg Petesch, Director, Legal Services Office, LSD,** discussed several recent court challenges to state statutes (EXHIBIT #11). Mr. Petesch summarized each case, reported the findings of the Court, and identified the cases which may require legislative action.

Mr. Petesch said traditionally, he has taken cases that have modified statutes to the Senate Judiciary Committee. Starting with the last interim, each case was assigned to the appropriate interim committee and that committee dealt with it. Mr. Petesch asked the Council to provide direction as to whether the Council wanted him to continue to report to it or if he should assign the cases directly to the appropriate interim committee that has jurisdiction.

SEN. TESTER said he thought Mr. Petesch should make the decision as to what the most appropriate handling of each case would be. After discussion, it was agreed that this matter would remain a standing agenda item and that Mr. Petesch would report to the Council what action the interim committees had taken on the various cases.

**Krista Lee Evans, Research Analyst, LSD,** gave an overview of the NCSL Legislators Back to School Week program (EXHIBIT #12). Ms. Evans discussed the many aspects of the program and said while Montana's participation has doubled, she will continue efforts to increase participation. She said the materials are readily available, easy to use, and emphasized that it is a wonderful opportunity for legislators to help Montana students and citizens understand the legislative process and to address issues important to Montanans.

SEN. GRIMES asked how many legislators are currently participating. Ms. Evans said a list of participants is included in EXHIBIT #12. Ms. Evans said regardless of whether legislators used the NCSL materials, she would like to know of legislative activity in the schools because it could be counted in her numbers.

REP. GILLAN asked if Ms. Evans could send out a sampling of the available materials to all of the legislators. Ms. Evans said she would have to discuss costs with Ms. Menzies but that sending sample copies to the legislators may be a possibility.

Ms. Evans said she and Ms. Menzies had met with the Office of Public Instruction (OPI) and asked for its assistance in getting this information to schools and that OPI had included the Legislators Back To School Week information in its newsletter to schools.

**JOHN MERCER, CHAIR, MONTANA BOARD OF REGENTS**, updated the Council on the Board's efforts in terms of economic development. Mr. Mercer stated the reasons for his appearing before the Council are:

- ▶ the Board's goal to have the University System, which has the needed knowledge and resources, act as a coordinator for economic development efforts in Montana;
- ▶ to discuss the University System's work on several major economic development initiatives;
- ▶ a request by the Board of Regents for Legislative Council clarification to determine which interim committee is the appropriate committee for the Board to work with towards its economic development goals; and
- ▶ to reach out to get an understanding of the problems faced by legislators and to participate with legislators in brainstorming sessions to find solutions.

Mr. Mercer said he wanted the Council's support in this effort, asked what role they would like to have in this endeavor, and also asked for guidance on which interim committee would be the appropriate committee to work with.

REP. GILLAN asked Mr. Mercer to introduce the other members present. Mr. Mercer introduced Dave Gibson, Governor's Office of Economic Development, Sheila Stearns, Commissioner of Higher Education, Mark Semmons, Regent from Great Falls, and Pam Joehler, Legislative Fiscal Division, and Chuck Swysgood, Office of Budget and Program Planning.

REP. GILLAN asked Mr. Mercer if the Board of Regents wanted to appear on the March agenda for additional discussion of specific ideas. Mr. Mercer said he would like to be on next agenda and suggested inviting the chairs of the Economic Affairs Committee and the Postsecondary Education Policy and Budget Subcommittee (PEPB) so that the Council would have a broader understanding of which committee would be the appropriate one to work with. Mr. Mercer said this would also allow time for the Council to gain a deeper understanding of what this whole initiative is all about.

SEN. GRIMES said that for purposes of discussion, the Council has assigned certain legislators to other subcommittees when there has been significant issues that must be dealt with. He said this issue may warrant assignment of representatives from both the Economic Affairs Committee and PEPB to form a working group.

SEN. GRIMES **moved** that the Board of Regents continue to keep the Economic Affairs Committee and PEPB informed of its economic development efforts. Additionally, the Board will be invited to the March Council meeting to provide an update. The **motion passed** unanimously on a voice vote.

SEN. TESTER asked that Mr. Mercer keep the Council members updated on developments occurring between this meeting and the March meeting. Mr. Mercer said he would see that the Council was kept informed of all activities.

An outline of the Board of Regent's proposal was distributed but not discussed (EXHIBIT #18).

## **LEGISLATIVE SERVICES DIVISION STAFF REPORTS**

Ms. Menzies presented an update of the LSD budget (EXHIBIT #13). She also reported that the Legislative Branch had received a "clean bill of health" in the recent financial audit. She asked the Council to recognize the LSD staff members of the Financial Services Office for their excellent work in the financial area: Karen Berger, Jennifer Murray, Debbie Bunker, and Lenore Adams.

Ms. Menzies presented information on budget development for the 2007 biennium (EXHIBIT #14). She discussed the timeline for developing the 2007 biennium budget and the activity that has taken place to date. Ms. Menzies also discussed new proposals for the 2005 biennium that were initially approved by the Council but later withdrawn due to budget considerations. She said she was bringing these items to the Council's attention in case members might wish to consider them again for the 2007 biennium. Some potential new proposals for the 2007 biennium were also identified by Ms. Menzies.

SEN. TESTER commented that the Pacific Northwest Economic Region (PNWER) budget seemed large and asked for details of how the funds are spent. He also asked if PNWER members reported to Legislative Council on PNWER activities. Ms. Menzies said Sen. Curtis attended the winter PNWER meeting in Portland and provided a written report, which was mailed out to Council members. Ms. Menzies said Legislative Council has appointed a four-member delegation to PNWER and the amount budgeted was to fund the delegates to attend both the winter and summer meetings for two years. She reminded the Council that the new proposals for the 2005 biennium were withdrawn and not funded.

REP. GILLAN asked if the Council could expect to hear a proposal to connect legislator laptop computers to the state network for the legislative session. Ms. Menzies said the Legislative Branch Computer System Planning Council had not yet met and she could not comment on whether the group would pursue a proposal for network connections again. REP. GILLAN said she thought this item was of importance and asked if a less expensive avenue could be researched. SEN. KEENAN said viruses that could potentially infect the entire state system were a concern that would have to be addressed. Ms. Menzies said the Planning Council could revisit this issue.

## **STATUS REPORT ON STATE REVENUE**

**Terry Johnson, Principal Fiscal Analyst, Legislative Fiscal Division (LFD)**, discussed a report of projected 2005 Biennium General Fund/ Federal Funds (EXHIBITS #15 and #16) which covered:

- ▶ fiscal year 2004 revenue trends;
- ▶ selected revenue sources;
- ▶ disbursement issues;
- ▶ general fund balance sheet;
- ▶ expenditure reductions;
- ▶ the 2007 biennium outlook; and
- ▶ year-to-date trends.

Mr. Johnson said the purpose of the reports was to provide information on significant general fund revenue trends that are occurring in fiscal 2004 and to provide an outlook for the remainder of the 2005 biennium.

**Chuck Swysgood, Budget Director, Governor's Office of Budget and Program Planning (OBPP)**, responded to Mr. Johnson's fiscal report and stated the OBPP:

- ▶ looks at the budget issues from a different perspective than the LFD but did reach similar conclusions to the LFD;
- ▶ had projected a \$55-\$56 million loss of revenue, versus the \$47 million loss projected by the LFD;
- ▶ will be starting the 2007 budgeting process very soon; and
- ▶ will continue to work with the LFD on budgetary issues.

REP. GOLIE referred to EXHIBIT #15, page 3, and asked Mr. Johnson to discuss why the property tax base is smaller. Mr. Johnson said the tax base appears small in relationship to what was estimated in the resolution. He said the base must be looked at in the context that the LFD report looked at it: what was estimated and what the actual number was.

REP. GOLIE asked Mr. Johnson to discuss protested taxes. Mr. Johnson said the protested taxes are placed in an escrow account at the local level. The State may take its share of the protested tax before the protest is resolved, with the requirement that if the issue is resolved in favor of the protestor, the State would have to repay the money.

REP. GOLIE asked if there would have to be legislative action to fund the school supplemental in the next session. Mr. Johnson explained that if the Superintendent of Public Instruction needed spending authority in 2004, she could borrow authority from 2005 to spend in 2004. She would have to request a supplemental appropriation in 2005 to replace the spent funds in order to fulfill her statutory 2005 payments.

REP. GOLIE referred to EXHIBIT #15, page 6, top slide and asked to Mr. Johnson to explain the \$50 million shortage in revenues projected for 2005 biennium. Mr. Johnson said it is an analysis of current revenue trends, based on data through the end of November 2003. Mr. Johnson said it is the analysis of a trend and is not the result of any legislative action.

REP. GOLIE referred to EXHIBIT #15, page 6, and asked what the projected annual revenue growth for 2004 and 2005 was. Mr. Johnson said that was a very difficult question to answer because there are too many factors and unusual events occurring to accurately predict.

REP. GOLIE asked Mr. Johnson to discuss year to date trends for individual income tax (EXHIBIT #15, page 7). Mr. Johnson said while there had been slower growth rates than estimated, the positive impacts of the federal tax reform measures have brought it back up.

REP. WANZENRIED asked if it was possible to have an "apples to apples" comparison of one year to the next. Mr. Johnson said the LFD is currently working on a project to answer exactly that. The goal is to provide a reasonable estimate of what the long term revenue growth should be without unusual events and occurrences and will be done for both the revenue and the expenditure side.

REP. WANZENRIED asked Mr. Johnson when the Department of Revenue information on corporate tax activity would be available. Mr. Johnson said the DOR was working on the information. Mr. Johnson also commented that recently the DOR been very accommodating to LFD requests.

REP. MOOD, referring to EXHIBIT #15, page 6, asked Mr. Johnson to discuss the "total revenue needed" figure of \$235 million. Mr. Johnson said that this was just a picture of where the budget was now and said growth in this biennium will affect the 2007 biennium outlook.

REP. MOOD stated that the primary shortfall in revenue was due to a decrease in the capital gains tax collections and a decrease in the corporate tax collections. He asked Mr. Johnson if he agreed with that statement. Mr. Johnson agreed. REP. MOOD said stock market growth has been around 30% and asked Mr. Johnson if he anticipated capital gains tax revenues to increase as a result of the stock market growth. Mr. Johnson said it could, but would depend on how much buying and selling actually occurred. Mr. Johnson said it was very difficult to predict this component.

SEN. TESTER asked if there were allowances for increases in any other line items in the LFD projections. Mr. Johnson said there were not. SEN. TESTER asked if present law was allowed for. Mr. Johnson said items required by statute were factored in.

REP. GILLAN asked Mr. Johnson to update the Council with another budget report at the March meeting.

#### **MANAGEMENT ADVISORY SUBCOMMITTEE REPORT**

The meeting was closed to receive a report from the Management Advisory Subcommittee on the Executive Director's performance appraisal.

#### **OTHER BUSINESS**

The Council discussed a letter received from Sen. McGee regarding an September 30, 2003, e-mail received from the Council of State Governments (CSG). The e-mail issued a "call to action" concerning a component of a federal Medicaid bill (EXHIBIT #17).

The Council discussed the propriety of using state funds to pay dues to interstate organizations that advocate positions before Congress. Following the discussion, the Council asked Ms. Menzies to contact both CSG and NCSL for information on their advocacy roles and to share this information with the Council.

#### **ADJOURN**

REP. GILLAN reminded Council members that the next meeting was scheduled for March 26, in Helena. With no further business before the Council, the meeting was adjourned at 3:20 p.m.

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