

Council Senate Members

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DUANE GRIMES
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DOUG MOOD
DAVID WANZENRIED

Montana Legislative Council

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MINUTES

September 22, 2003

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. VICKI COCCHIARELLA
SEN. BRENT CROMLEY
SEN. DUANE GRIMES
SEN. JON TESTER
SEN. FRED THOMAS

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

COMMITTEE MEMBERS ABSENT

REP. JEFF LASZLOFFY

STAFF PRESENT

Lois Menzies, Executive Director, Legislative Services Division (LSD)
Greg Petesch, Director, Legal Services Office, LSD
Dave Bohyer, Director, Office of Research and Policy Analysis, LSD
Dawn Field, Committee Secretary, LSD

AGENDA & VISITOR'S LIST

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

COMMITTEE ACTION

The Council:

- ▶ adopted the May 22, 2003, minutes as amended;
- ▶ consulted with the Department of Natural Resources and Conservation on the proposed sale of the Bozeman and Whitefish armories;
- ▶ approved prices for the annotations of the Montana Code Annotated;
- ▶ approved changes to the Legislative Council Rules of Procedure;
- ▶ approved the MACo building as the site for the September 23, 2003, Legislative Council planning session; and
- ▶ approved the SJR 32 Subcommittee's request to schedule its November meeting in Billings, Montana.

CALL TO ORDER AND ROLL CALL

Rep. Gillan called the meeting to order at 6:02 p.m. Roll call was taken; Rep. Laszloffy was excused (Attachment #3).

APPROVAL OF MINUTES

The Council adopted the May 22, 2003, minutes as amended.

STATUS REPORT ON STATE REVENUE COLLECTIONS AND EXPENDITURES

Terry Johnson, Principal Fiscal Analyst, Legislative Fiscal Division (LFD), gave a PowerPoint presentation detailing the general fund status (Exhibit #1) and discussed the following information with the Council;

- ▶ The actual balance for FY 2003 in the general fund balance was \$46.4 million, and the expected balance was \$16.5 million, for a net difference of \$29.9 million.

- ▶ Current year revenues have exceeded estimations by \$23.7 million and prior year revenues were \$6.1 million less than estimated, for a positive net difference of \$17.6 million.
- ▶ This information illustrates that in FY 2002, agencies overaccrued their revenues.
- ▶ Sources of the additional \$23.7 million were from royalties, taxes, and institutional reimbursements.
- ▶ Disbursements for current year to date have been \$11.7 million less than budgeted and disbursements for the prior year were \$2.2 million more than budgeted, for a net effect of \$9.5 million less than anticipated by the Legislature.
- ▶ Actual reversions were \$30 million, budgeted reversions were expected to be \$20.5 million for a net effect of \$9.5 million of unexpected reversions.
- ▶ Sources of the major reversions were DPHHS, Feed Bill, Legislative Branch, DOR, and DOJ.
- ▶ The fund balance was increased by \$2.8 million and LFD is currently researching the source of this money.
- ▶ Balance Change Summary: The additional \$29.9 million dollars was the result of:
 - ▶ \$17.6 million - additional revenues,
 - ▶ \$ 9.5 million - reversions, and
 - ▶ \$ 2.8 million - adjustments.

Mr. Johnson provided a balance statement for the 2005 Biennium (Potential Funds Available for Other Fiscal Issues: General Fund Account Plus Federal Grant Funds - Exhibit #2) and stressed it was a "point in time" overview and was not a complete and comprehensive budget analysis.

This overview depicted:

- ▶ Known fiscal issues - factors such as the Federal Relief Grant funds, Federal Relief FMAP increase, and other issues,
- ▶ Estimated fiscal issues - state fire costs and revenue estimate variances,
- ▶ Unknown fiscal issues - potential supplementals, legislative audit adjustments to FY 2003, and NorthWestern Chapter 11 bankruptcy proceedings.

Mr. Johnson stated he was concerned about the revenue estimate variances category. Mr. Johnson explained this category is made up of two components:

- ▶ corporate income tax adjustment - major refund activity is anticipated in the corporate arena,
- ▶ investments earnings adjustment - state investment earnings have been impacted by low interest rates, and
- ▶ these two adjustments total \$17.2 million.

Mr. Johnson said these adjustments were not anticipated by the 2003 Legislature and said it was critical to note that this adjustment has been made only for FY 2004. FY 2005 and other major sources of general fund revenue have not been factored in.

Mr. Johnson also voiced his concern regarding three of the larger general fund revenue source estimates:

- ▶ Individual income tax: In order for the individual income tax to achieve the estimate that is contained in HJR 2, there will have to be a 4.2% growth rate. Labor reports indicate that Montana is experiencing little or no job growth so there is little likelihood of achieving this estimate.

- ▶ Corporate income tax: In 2002-2003, this revenue source experienced a large decline, due to the large volume of refund activity. In order to achieve the 2003 estimate there would have to be a 46.7% growth rate, which is very unlikely to occur.
- ▶ Investment earnings: This category is driven by investable balances and short term interest rates. In order to achieve the estimate contained in the budget, there needs to be a growth rate of 120.9%, which is extremely unlikely to occur.

Mr. Johnson also said LFD has determined the average fire season cost per year for the last five years to be \$7 million and said the estimate of \$28.3 million for this year will obviously have an impact.

Rep. Brown asked Mr. Johnson to clarify that the revenue estimate variances of \$17.2 million was just for FY 2004 and if FY 2005 estimates could be off as well. Mr. Johnson said that was correct.

Rep. Wanzenried asked Mr. Johnson if the DPHHS needed to take formal action to expend the FMAP money. He also asked if the money will represent a reversion if it is not spent. Mr. Johnson said it was his understanding that the \$19 million in FMAP funds free up general funds and if those general funds are not used, they will show up as a general fund reversion. Rep. Wanzenried asked if that meant that in the current fiscal year, the department can expend those dollars within the department on eligible programs without any formal action (budget amendment/ legislative activity). **Taryn Purdy, Principal Fiscal Analyst, LFD**, said they have the authority to do that.

Sen. Cocchiarella said there has been a net loss of 200 jobs in 2003 in Montana and asked how this would affect individual income tax collections. Mr. Johnson said employment levels are key to the wage income tax collected and this category would be negatively impacted by the lack of job growth

Rep. Gillan asked Mr. Johnson if the federal relief grant funds come automatically to the state. Mr. Johnson said the Governor was required to go through a certification in June, which the Governor did, to get the first \$25 million. He said after October 1, 2003, the Governor will go through a second certification to receive the second \$25 million.

Gary Hamel, Senior Fiscal Analyst, LFD, discussed fire costs in Montana. Mr. Hamel said:

- ▶ In 2000 (FY 2001), fire costs totaled \$54.9 million, \$44.8 million was reimbursed by the federal government, leaving a net cost to Montana of \$10.1 million.
- ▶ This year (FY 2004), the cost is estimated to total approximately \$71 million. Montana expects to receive \$42.7 million in reimbursements, leaving a net cost of approximately \$28.3 million.

Sen. Grimes asked if the reimbursement estimate was secure. Mr. Hamel said FEMA is expected to pay 75% of eligible fire costs but the process of applying for FEMA reimbursement has not been started yet so it was too early to set a firm number. Mr. Hamel said his best estimate was that the state will receive a \$40.5 million reimbursement from FEMA and approximately \$2.3 million from other states for fire assistance Montana provided to them.

Sen. Keenan asked what the highest and lowest fire cost years have been in Montana. Mr. Hamel said LFD uses net cost figures and the lowest net cost recorded was \$773,341 in FY 1998 and the highest net cost recorded was \$12.9 million for FY 2002.

Chuck Swysgood, Director, Governor's Office of Budget and Program Planning (OBPP),

commented on areas of concern to him:

- ▶ The fire season costs for this year could continue rising, possibly reaching \$30 million.
- ▶ FEMA may not pay the 75% that the state is assuming it will pay and that could force fire costs even higher.
- ▶ Next year's fire costs should be considered now, especially if the drought situation continues in the state.
- ▶ Director Swysgood questioned DPHHS's spending authority as was discussed earlier and said further research must be done to clarify that issue.
- ▶ Care must be taken when allocating the federal FMAP funds and the general fund dollars freed up as a result of the federal funds. Montana must not expand the level of services when allocating the general fund money. If the level of service is expanded, then in the next budget cycle, there will be expanded programs with no funding available, resulting either in cutbacks or searching for new funding sources. The Governor will look at this issue to see what is available and make recommendations as to how some of this funding can be spent as soon as the fire costs are finalized.
- ▶ The Governor has until September of 2004 to certify for the additional federal funding.

Sen. Tester asked when the fire season costs would be finalized. Director Swysgood said due to the dry conditions in the state, it probably would be late September to mid-October before the costs could be finalized and it would likely be the end of 2003 before any FEMA reimbursements are received by the state.

Sen. Tester asked when the OBPP would make available its plan for spending the additional funds. Director Swysgood said after fire costs have been reviewed and if there were available funds, a plan for spending those funds would be made by the end of 2003.

Rep. Wanzenried asked Director Swysgood in regard to the FMAP funding, if the DPHHS identifies specific areas in need of funding, would OBPP allow that funding for any programs within the department. Director Swysgood said he recognizes that there are many needs but the biggest concern is the ability to sustain increases in services. He said the OBPP was very reluctant to fund increases in services and then decrease them later.

Rep. Wanzenried asked Director Swysgood if, as a former legislator, he would be comfortable with the executive having "carte blanche" budget amendment authority to spend upwards of \$50 million dollars in unanticipated revenue. He also asked if the Budget Director agreed the budget amendment law was crafted narrowly to take care of single source funding that was unanticipated that comes in but is targeted for certain programs. Director Swysgood said the federal funding was an unusual occurrence and since there were many restrictions in place, he had no concern about the situation.

Rep. Wanzenried asked if Director Swysgood thought there should be any legislative role in allocating these funds. Director Swysgood said the Governor would be receptive to legislative

recommendations but ultimately it is the Governor's decision on how the funding will be allocated.

Rep. Gillan asked if Montana could ask FEMA to change its policy and pay more than 75% of expenses. Director Swysgood said for many reasons it was doubtful that FEMA would change its policy.

CONSULTATION ON PROPERTY SALES

Bozeman Armory

Jan Ward, Department of Natural Resources (DNRC), presented a proposal for selling the Bozeman Armory to the City of Bozeman for the appraised value of \$815,000 (Exhibit #3). Ms. Ward reviewed the details of the sale for the Council in Exhibit #3 and said representatives from the City of Bozeman and the Department of Military Affairs (DMA) were available to answer questions.

Harley Harris, Luxan & Murfitt Law Firm, spoke on the behalf of his client and concerned citizen, Thomas Mosser of Bozeman, Montana. Mr. Harris reviewed the time line of the armory sale and discussed related issues:

- ▶ The DNRC set a date of May 13, 2003 for the public auction, as mandated by 77-2-321, MCA.
- ▶ The public auction was cancelled because the sole bidder, Mr. Mosser, withdrew his bid after realizing there was no competition.
- ▶ Another public auction was scheduled for July 8, 2003.
- ▶ This auction date was also cancelled because Dick Clotfelter approached the City of Bozeman with his plan to privately develop this property into a performing arts center, after realizing he could not negotiate directly with the DMA to acquire the property.
- ▶ Acting under the authority of 77-2-351, MCA, the City of Bozeman made a direct offer to the DMA to purchase the armory for \$815,000 and the second public auction was never held.
- ▶ The money the City of Bozeman tendered to the DMA as a "deposit" for the purchase of the armory was provided to the City of Bozeman by Mr. Clotfelter. (Mr. Harris provided a copy of the check in the letter previously sent to the Council.)

Mr. Harris stated that in his legal opinion:

- ▶ The City of Bozeman acted improperly as an "intermediary" for the private acquisition of this parcel.
- ▶ 77-2-351, MCA, requires a public auction be held but one has yet to take place.
- ▶ Policy and statute are being violated and Montana is in danger of setting precedent. This should be of great concern to Legislative Council: by endorsing a process such as this, any public entity in Montana could become an agent for private development interests in State lands.
- ▶ The Legislative Council does have the power to communicate concerns to the Land Board over the sale of public lands under the consultation rule (77-2-351, MCA). The Council may choose not to exercise this power but it is available to the Council.

In closing, on behalf on his client, Mr. Harris asked the Council to examine the proceedings and give this matter careful consideration.

Ralph DeCunzo, Department of Military Affairs (DMA), said:

- ▶ Montana statute is clear that the DMA has the legal authority to sell the armory to a public entity.
- ▶ The DMA's concern is for what is in the best interest of the State, not to dictate or influence what the public entity does with the facility once the property is sold.
- ▶ Mr. Mosser pulled his bid and the DMA had no guarantee there would be other bidders and needed funds to cover the construction bonds that were sold to construct a new facility.
- ▶ The Adjutant General determined that obtaining the \$815,000 was the best value for the State.

Dick Clotfelter, Bozeman developer, introduced himself as the private developer who purchased the armory and described his development plan to the Council:

- ▶ His proposed development plans include a performing arts center, a parking garage, a publically and privately financed convention center, and a hotel; and
- ▶ the armory property will be the site of the performing arts center.

Mr. Clotfelter said he did not understand Mr. Mosser's objection to the process because he had the same opportunity to bid as himself. He also said, that the bottom line is that the State has property for sale, he has the money and will pay the full appraised value; and this was the "quickest and best way to do it".

Rep. Wanzenried asked Mr. Harris to tell the Council exactly what relief he was seeking on behalf of his client. Mr. Harris said Mr. Mosser realizes the Council does not have the authority to order this, but that he would like to see the property be put up again for public auction. He asked the Council to examine this situation from a legislative perspective to determine if this situation has exposed a potential loophole in 77-2-351, MCA. Mr. Harris said he and his client would like the Council to indicate to the Land Board that it has concerns over the procedure followed.

Sen. Keenan asked Ms. Ward to refer to Exhibit #3, 2. a, and noted that the land originally was deeded to the state by the Story family in 1940 for the sole purpose of building an armory and was therefore, non-trust State land. He asked if that meant there was a restriction in the deed that would prevent the sale of the property. Ms. Ward said the only restriction in the deed was that construction on the armory had to commence within two years of the date on the deed and that restriction was complied with.

Sen. Keenan also asked about the status of the listing of the armory in the National Register of Historic Places. Ms. Ward said that process had not been completed but would be after the Land Board approved the change in process of sale from 77-2-301, MCA, to 77-2-351, MCA. The public notice and comment period ended in August, a public hearing was held in September and there were no comments of opposition to the change in sale process. The next step will be to petition the Land Board for its approval and then resume the process involving the historic registry.

Sen. Keenan asked Greg Petesch, Director of the LSD Legal Services Office, if the Council should adopt a motion that consultation has occurred or if a motion by the Council would be premature, in light of the decisions yet to be made by the Land Board.

Mr. Petesch said the Council could not wait until after the Land Board has met to adopt a motion because the fact that this item has appeared on the agenda means that consultation had occurred. Mr. Petesch told the Council it could choose to inform the Land Board simply that consultation has occurred or it could inform the Land Board that consultation has occurred and additionally express its concerns and/or make recommendations, but either way the Council's role was purely advisory.

Rep. Gillan asked Mr. Petesch if he was concerned about the procedure followed in this particular situation. Mr. Petesch said this was a unique transaction and he did see a procedural issue. He said the Land Board approved a public auction but then the department privately sold the property to a public entity, foregoing the public auction without the Land Board formally withdrawing it. Mr. Petesch said there were no administrative rules in place to provide guidance in a situation like this and it would be in the State's best interest to have such guidelines in place.

Rep. Gillan asked if the Legislative Council had ever made a consultation motion with attached suggestions/concerns for certain issues that the Council felt needed to be studied. Mr. Petesch said the Council has made such a motion. Rep. Gillan asked if, after study, the issues that were of concern came back to the Council for a final consultation. Mr. Petesch said to his knowledge, the Council had not requested that issues be brought back before it.

Sen. Cocchiarella asked Mr. Petesch if the Legislative Council had to be consulted on this transaction or if the Land Board could make this decision without Legislative Council consultation. Mr. Petesch said that without Legislative Council consultation, the decision could be voided for failure to conform to a statute. Sen. Cocchiarella asked what legal liability the Council may be exposed to if it states consultation has occurred. Mr. Petesch said he saw no potential liability for the Legislative Council.

Sen. Thomas asked if this question of procedure directly involved the Legislative Council. Mr. Petesch said it does not involve the Legislative Council. Sen. Thomas then suggested the Council simply state that consultation has occurred and attach the Council's opinion as to whether or not the transfer is in the State's best interest.

Sen. Keenan **moved** to reflect that consultation on the Bozeman armory property transfer has occurred and that the Council respectfully expresses concern that the process envisioned by the Land Board has changed and that the Land Board adopt procedures to address process changes.

Sen. Cocchiarella expressed concern about the procedures used by the Land Board to transfer the property and said she was hesitant to pass a motion that could be construed as Legislative Council approval of the Land Board's actions.

Mr. Petesch said Land Board consultation with this Council occurs only if the proposed sale is with a public entity. He added that if the property had gone to public bid, the consultation of this

Council would not be required. Mr. Petesch also said the process had been changed and there was nothing in the Land Board minutes that reflected that the Board contemplated the change.

Rep. Gillan asked Mr. Petesch to suggest any editing or modification of Sen. Keenan's motion to address Sen. Cocchiarella's concerns. Mr. Petesch said he would recommend wording that would ask the Land Board to address why it approved a public auction and then changed the sale venue from public to private without voiding the decision to hold a public auction.

Rep. Golie made a substitute motion. He **moved** to inform the Land Board that Legislative Council consultation had occurred and that the Legislative Council feels this sale is not in the best interest of the State of Montana.

Sen. Thomas asked Rep. Golie why it was not in the State's best interests. Rep. Golie answered that the procedures used in this transfer were different from any other exchanges or sales of property that have come before the Council and in that respect he did not think it was in the best interest in the State of Montana.

Sen. Keenan asked Mr. Petesch if the dollar amount of this sale was firm. Mr. Petesch said if the sale was approved by the Land Board, then the DMA would receive \$815,000 from the City of Bozeman and pursuant to the Montana statute, the \$815,000 received by the DMA would have to be used to retire debt service on the new armories that were built.

Sen. Thomas asked if the sale price could change if a different sale process was used. Mr. Petesch said the \$815,000 was the appraised value that would have to be paid through a private sale but at a public sale it was possible that the property could sell for more than the appraised value.

Sen. Cocchiarella said under the circumstances, the Council could not make a clear determination of what was in the State's best interest and therefore, she endorsed Sen. Keenan's motion. She also said she thought this situation went way beyond what the law intended. She suggested this matter be taken up for clarification in the next legislative session.

Sen. Keenan asked if the DMA was going to be paid \$815,000 or if the title would go to the City of Bozeman which could then sell it for a different price. Mr. Clotfelter said there would be no gain by the City of Bozeman and that the price would remain at \$815,000.

Rep. Golie withdrew his substitute motion.

Rep. Mood said he was still concerned by the lack of clarity in Sen. Keenan's motion.

Sen. Keenan rephrased his motion and **moved** that consultation on the Bozeman armory project has occurred and that the Legislative Council respectfully expresses concern that the process envisioned by the Land Board has not been followed and asks the Land Board to visit that issue.

The motion passed unanimously on a voice vote.

Whitefish Armory

Jan Ward, DNRC, presented a proposal for the direct sale of the Whitefish Armory to the City of Whitefish for the appraised value of \$88,000 (Exhibit #4). Ms. Ward reviewed the details of the sale for the Council in Exhibit #4 and said representatives from the City of Whitefish and the DMA were available to answer questions.

Mike Eve, Assistant City Manager, City of Whitefish, said on behalf of the City of Whitefish, he would like to express interest in purchasing the Whitefish armory from the State of Montana. Mr. Eve said this purchase would benefit the citizens of Whitefish and detailed the plans Whitefish has made for the armory:

- ▶ renovate the armory building for historical preservation and rename it after a prominent Whitefish citizen,
- ▶ build a veterans' memorial on the site,
- ▶ change the name of the street adjacent to the armory to "Memorial Way",
- ▶ utilize armory space to increase the park and recreational programs, including construction of a new skateboarding park, a picnic area, and a new playground, and
- ▶ utilize armory space for training for local law enforcement officers.

Eric Garberg, Whitefish City Council, on behalf of the city of Whitefish, expressed support for the purchase and asked the Council for its endorsement of the sale.

Mr. Petesch said in the last legislative session, a statute was passed that mandates when a local government transfers property to the State, the local government has the right of first refusal, should the State ever sell the property and said this would be the first sale to implement the statute.

Sen. Keenan **moved** that consultation concerning the sale of the Whitefish armory to the City of Whitefish has occurred. The motion passed unanimously by voice vote.

Sen. Cocchiarella asked to comment on the property transfers. She said the legislature should use its voice when it has the opportunity to do so and this was such an opportunity. She said this was an example of positive action on the part of the legislative body and she would have liked for the Legislative Council to go on record as recognizing the legitimacy of this kind of transaction and not just to simply state the Council was consulted. Ms. Menzies said that the last time the Council approved property transfers, she sent letters expressing the Council's approval of the transfers. Sen. Cromley disagreed with Sen. Cocchiarella and said the statute defines this as a consultation, not a hearing. He said he was uncomfortable recommending a sale without a formal hearing process, therefore, was willing to go on record stating only that a consultation had occurred. Sen. Cocchiarella stated that this is the only time the Legislature gets to see what happens to state land and the Council should use its legislative voice. There was no further discussion of the matter.

RECENT COURT CHALLENGES TO STATE STATUTES

Mr. Petesch directed the Council's attention to a handout he prepared (Recent Court Challenges to State Statutes, Report to Legislative Council - Exhibit #5) and said there had been no final

decisions issued for these cases. Mr. Petesch briefly discussed each case, as per the handout and reported new information as it related to the different items:

1. Montanans for the Responsible Use of the School Trust (Montrust) v. Darkenwald: Mr. Petesch reported that Montrust had recently informed the DNRC attorney that they do intend to appeal.
2. Brown v. Montana Districting and Apportionment Commission: No new information reported.
3. American Cancer Society v. State of Montana: Mr. Petesch reported that briefing is still occurring and it has not yet been determined if this is an appropriate case for the Supreme Court or if it should be remanded to District Court for findings of fact and conclusions of law. He informed the Council this case has import for the legislature for two reasons:
 - ▶ there is an allegation that the bill title and the bill itself violated the single subject rule; and
 - ▶ there are challenges to the bill based on alleged violations of legislative rules. Mr. Petesch reported he had been in contact with the attorney for the Department of Justice assigned to this case and had offered his assistance in the defense of this case because of the potential for directly impacting the legislative process used in enacting statutes.

Rep. Gillan said the Council would like to have this type of report as a standing agenda item and asked Mr. Petesch report regularly.

LEGISLATIVE PUBLICATIONS

Mr. Petesch reported the Montana Code Annotated was in the mail, Council members should be receiving it in the next several days, and the October 1, 2003 deadline was met. He reported the two complaints received about the last set of codes had been remedied: the spines now have contents listed on them and the year of publication now appears on the pages.

Mr. Petesch also noted that difficulties related to codification of multiple versions of code sections were minimized at the drafting and amendment stage by preparation of coordination sections that voided sections or that provided instructions on how the sections should be codified.

Rep. Gillan recommended donating old copies of the codes to high schools for use in class rooms and by debate teams. Mr. Petesch said inmates in county jails and the state prison also like to have old copies.

Mr. Petesch gave the Council an update of the prices for the 2004 annotations to the code. He informed the Council that West Group of Eagan, MN had submitted a bid of \$90,117.60 and discussed the details with the Council (Exhibit #6). Mr. Petesch recommended setting the purchase price for the 2004 annotations at:

- ▶ \$315.00 for a full set,
- ▶ \$30.00 per individual volume, and
- ▶ \$175.00 for a CD-ROM containing the 2003 MCA and 2004 annotations.

Sen. Keenan **moved** to approve the recommended prices for the 2004 annotations. The motion passed unanimously on a voice vote.

ADOPTION OF LEGISLATIVE COUNCIL RULES OF PROCEDURE

Ms. Menzies stated that the proposed revisions to the Legislative Council's Rules of Procedure (Exhibit #7) are mostly housekeeping in nature. She asked to reserve the right to bring back more substantive revisions regarding bill drafting at a later meeting. She then reviewed each proposed change.

Sen. Grimes **moved** to adopt the rule changes, with the exception of the A-3 change regarding striking "the State Capitol,". Sen. Grimes asked to discuss that change as a separate motion. The motion passed unanimously on a voice vote.

Sen. Grimes said he did not know the original intent in rule A-3 for designating such a specific meeting place for Legislative Council and said it would behoove the Council to have the flexibility to designate meeting places on an "as needed" basis.

Rep. Brown said he did not see the need to make a change because rule A-3 goes on to say: "unless approved by a majority of the members", thus allowing for flexibility.

There was no further discussion.

Rep. Golie **moved** to hold the September 23, 2003, planning session at the MACo Building. The motion passed unanimously on a voice vote.

REPORT FROM SUBCOMMITTEES

SJR 32 Subcommittee on Medical Liability Insurance

Rep. Golie reported the Subcommittee:

- ▶ heard testimony from the stakeholders: State Auditor's Office, liability and medical providers, liability insurance providers, liability and the legal profession.
- ▶ determined there was a significant lack of information from the stakeholders.
- ▶ will seek additional information from the stakeholders through the use of surveys of hospitals, insurance carriers, and the Montana Bar Association.
- ▶ had not made a final determination if there was a crisis and hoped to make that determination at the next meeting.
- ▶ has set an agenda for the next meeting that will include the stakeholders' information gathered from the surveys, the legalities and the legal history of the medical liability insurance.
- ▶ elected Sen. Grimes as Vice Chair.
- ▶ wished to hold its next meeting in Billings, Montana.

Rep. Brown said part of the discussion regarding a meeting in Billings included making certain it was economically feasible. He suggested having the Legislative Council also meet in Billings,

since there are overlapping members and staff. Rep. Gillan said she had consulted with Ms. Menzies regarding the budget and funding for a meeting in Billings. Ms. Menzies reported a SJR 32 Subcommittee meeting in Billings would be an additional expense of approximately \$1400 - \$1500 and that the funds were available to the Council.

Sen. Grimes asked to have a Billings meeting approved by Legislative Council to allow the medical professionals in Billings and eastern Montana an opportunity to provide needed information to the Subcommittee.

Rep. Gillan asked if there were any objections to scheduling a SJR 32 Subcommittee and a Legislative Council meeting in Billings. Sen. Cromley voiced his objection saying too many individuals would be inconvenienced by meeting outside the Capitol. Sen. Cocchiarella also voiced an objection and said Legislative Council may set a precedent if it begins scheduling meetings somewhere other than Helena.

Rep. Gillan said she believed there was validity for scheduling a SJR 32 meeting in Billings because of the concentration of medical providers located there and the location would also allow many rural hospitals to participate. Rep. Golie agreed and noted that valuable information could be gained from these groups and individuals. He also said he saw no reason for the Legislative Council to have its meeting in Billings if there were objections.

Rep. Mood said he found it hard to believe that those involved in this issue would not make the trip to Helena to participate, given what is at stake. Rep. Brown replied it was especially difficult for the specialty practices to take the time off to come to Helena to testify and that was the reason he thought it important to look at the possibility of a Billings meeting location.

Rep. Brown **moved** to hold the November SJR 32 Subcommittee meeting in Billings at one of the hospitals.

Rep. Mood said, if it was decided to hold the meeting in Billings, it would be critical that it be advertised extensively and suggested that Subcommittee members personally contact the appropriate facilities and individuals to be certain that the meeting is well attended.

The motion passed on a voice vote, with Sen. Cromley and Sen. Cocchiarella voting no.

Management Advisory Subcommittee

Rep. Gillan reported that most of the Subcommittee's discussion was dedicated to Ms. Menzies' annual review, as well as budget items.

MISCELLANEOUS REPORTS

Session Publications

Ms. Menzies displayed and explained the different session publications that are produced after the legislative session:

- ▶ History and Final status and second and third reading votes;

- ▶ Montana Legislative Review; and
- ▶ Session Laws.

Ms. Menzies informed the Council that the MCA is available on-line.

TVMT Update

Ms. Menzies noted the changes and developments that have occurred with TVMT since the May 2003, Legislative Council meeting (Exhibit #8). Highlights included:

- LSD entered into a contract with Helena Civic Television (HCTV) in August 2003 that will expire in December 2004,
- major services provided by HCTV will be:
 - ▶ videotaping and broadcasting over cable television in Helena and possibly other Montana communities, the proceedings of selected interim committee meetings and any special legislative session,
 - ▶ assessing the need for equipment repair and maintenance and new equipment purchases, and
 - ▶ pursuing foundation and federal grants and in-kind contributions to enable statewide distribution of TVMT programming.
- Stephen Maly is the contract liaison for HCTV and Lois Menzies is the contract liaison for LSD.

Session Services Survey Results

Ms. Menzies distributed two tables containing the results of two legislator surveys conducted during the 2003 Session (Exhibit #9):

- ▶ Committee Staff Services Evaluation Survey - 269 responses and the majority were positive, indicating a high level of satisfaction.
- ▶ Survey of Session Services Provided by LSD - approximately half of the legislators responded and the ratings varied between excellent and very good in all categories.

Committee Workload Statistics

Ms. Menzies provided another handout of tables detailing the activities of the Legislature over the past few sessions (Exhibit #10) and said she thought the Council would find the statistics listed in the tables interesting.

OVERVIEW OF SEPTEMBER 23, 2003, PLANNING SESSION

Ms. Menzies reviewed the agenda for the September 23, 2003, Legislative Council planning session (Exhibit #11) and said the purpose of the planning session was to identify those issues that could be pursued in the upcoming interim.

PUBLIC COMMENT

There was no public comment.

ADJOURNMENT

The next Legislative Council meeting is tentatively scheduled for November 21, 2003. Rep. Gillan asked members to advise her as soon as possible if they had a scheduling conflict so that a different date could be selected. She asked members to notify her as soon as possible if they had items they wished to have on the next meeting agenda.

Ms. Menzies said if there were not enough items for a meeting, the Council could postpone meeting again until December or January.

Rep. Golie said he would notify Rep. Gillan when a date has been set for the SJR 32 Subcommittee meeting in Billings and the date would allow overlapping members to attend both meetings.

The meeting adjourned at 9:30 p.m.

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