



Legislative Council

61st Montana Legislature

SENATE MEMBERS

CAROL WILLIAMS--Vice Chair
JOHN BRUEGGEMAN
JEFF ESSMANN
JESSE LASLOVICH
ROBERT STORY
DAVID WANZENRIED

HOUSE MEMBERS

DENNIS HIMMELBERGER--Chair
BOB BERGREN
MARGARETT CAMPBELL
TOM MCGILLVRAY
JESSE O'HARA
MIKE PHILLIPS

COMMITTEE STAFF

SUSAN FOX, Executive Director
GREG PETESCH, Legal Division Director
DAWN FIELD, Secretary

MINUTES

March 1, 2010

Room 102, State Capitol
Helena, Montana

Please note: These minutes provide abbreviated information about committee discussion, public testimony, action taken, and other activities. The minutes are accompanied by an audio recording. For each action listed, the minutes indicate the approximate amount of time in hours, minutes, and seconds that has elapsed since the start of the meeting. This time may be used to locate the activity on the audio recording.

An electronic copy of these minutes and the audio recording may be accessed from the Legislative Branch home page at <http://leg.mt.gov>. On the left-side column of the home page, select *Committees*, then *Interim*, and then the appropriate committee.

To view the minutes, locate the meeting date and click on minutes. To hear the audio recording, click on the Real Player icon. Note: You must have Real Player to listen to the audio recording.

COMMITTEE MEMBERS PRESENT

REP. DENNIS HIMMELBERGER, Chair
SEN. CAROL WILLIAMS, Vice Chair

SEN. JOHN BRUEGGEMAN
SEN. ROBERT STORY
SEN. DAVID WANZENRIED

REP. TOM MCGILLVRAY
REP. JESSE O'HARA
REP. MIKE PHILLIPS

COMMITTEE MEMBERS EXCUSED/ABSENT

SEN. JEFF ESSMANN
SEN. JESSE LASLOVICH
REP. BOB BERGREN
REP. MARGARETT CAMPBELL

STAFF PRESENT

Susan Fox, Executive Director, Legislative Services Division (LSD)
Greg Petesch, Director, Legal Services, LSD
Karen Berger, Financial Services Manager, LSD
Dawn Field, Council Secretary, LSD

AGENDA & VISITORS' LIST

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

COMMITTEE ACTION

The Legislative Council approved the December 14, 2009, meeting minutes as written.

CALL TO ORDER AND ROLL CALL

00:00:04 REP. HIMMELBERGER called the meeting to order at 3:00 p.m. The Secretary took the roll, SEN. ESSMANN, SEN. LASLOVICH, REP. CAMPBELL, REP. BERGREN were excused (ATTACHMENT #3). **SEN. WANZENRIED moved to approve the December 14, 2009, meeting minutes as written. The motion passed on a unanimous voice vote.**

Overview of March 3 training, schedule, and dinner

00:02:10 **Susan Fox, Executive Director, Legislative Services Division (LSD)**, updated the Council on the March 3 legislator training, schedule, and dinner. She discussed the training topics and breakout sessions available to legislators. SEN. STORY said that it needs to be clear to all in attendance that this is a training session for legislators and that while the public is welcome to observe, public comment or questions will not be taken. REP. HIMMELBERGER said that staff has made every effort to make sure that members of the public are clear on the day's activities. Ms. Fox said that the use of signage, frequent announcements, and room configurations were designed to reinforce how the training would flow. Several staff members will act as sergeants at arms in the House and Senate and additional staff from the Department of Administration (DOA) will also provide security.

Overview of 17-7-140, MCA process and status

00:11:36 Ms. Fox distributed copies of "*LFD Analysis Spending Reductions Proposal - Part 1 - Overview*" (**EXHIBIT 1**), prepared by the LFD in accordance with the requirements 17-7-140, MCA.

00:12:10 **Jeff Martin, Research Analyst, LSD, and research staff for the Revenue and Transportation Interim Committee (RTIC)**, reviewed the RTIC's role in the budgeting process, the statutory requirements of 17-7-140, MCA, and RTIC's actions at its last meeting regarding this issue.

Status of Feed Bill

00:14:58 Ms. Fox referred to the 2009 Regular Session Feed Bill (**EXHIBIT 2**) and explained how funds could be made available for a 5-day special session.

Interim Committee Budgets Status

00:17:07 Ms. Fox said that, overall, the interim committees have not used up much of their budgets (**EXHIBIT 3**) and explained how the carry-forward monies are being used.

Consideration of 5% Reduction in 2011

00:18:28 Ms. Fox said that a letter from Governor Schweitzer was received in January requesting that the legislative branch consider joining in the voluntary spending reductions (**EXHIBIT 4**). She reviewed a list of proposed legislative branch budget reductions totaling \$586,086 (**EXHIBIT 5**).

00:21:50 REP. HIMMELBERGER asked how the legislative branch cuts compare to other agencies. Ms. Fox said that the cuts were about in the middle of the range.

00:22:30 REP. MCGILLVRAY referred to page 2 of **EXHIBIT 5** and asked for specific information regarding the proposed \$92,805 cut from the LSD Information Technology (IT) budget. Ms. Fox said that the amount was cut from its contracted services budget for specialty contracts.

00:24:37 REP. MCGILLVRAY asked why the National Congress of State Legislatures (NCSL) and the Council on State Governments (CSG) budgets were not cut. Ms. Fox said it was because NCSL dues were paid through stimulus funds in HB 645 and CSG dues paid through Program 21. She said that dues could be part of the reduction, if necessary.

00:25:58 SEN. STORY also wanted to know more specific information on the executive branch agency budget cuts. He asked if the legislative branch cuts would count toward the ending fund balance. Ms. Fox said it was her understanding that they would be included in the ending fund balance.

00:29:09 **Greg Petesch, Director, Legal Services, LSD**, said that the legislative branch money would not actually be moved anywhere because it is a statutorily authorized reversion back to the general fund.

00:30:25 **Karen Berger, Financial Services Manager, LSD**, said that the Office of Budget and Program Planning (OBPP) plans to place the reverted amounts in a separate subclass and freeze it in order to ensure that agencies will not be able to spend it so that it can be reverted at the end of the biennium.

00:31:32 Copies of the Governor's budget reduction recommendations were provided to the Council (**EXHIBIT 6**).

Distribution of CSG and NCSL funds

00:32:13 REP. HIMMELBERGER stated that he still has concerns about the lack of guidance from the Council on this issue and asked the Council to adopt a more formal policy. Copies of the NCSL and CSG budgets for the House Republicans were provided (**EXHIBIT 7**). REP. HIMMELBERGER proposed that there be specific language directing that the money be used for members of the caucus appointed to national committees.

- 00:36:16 SEN. STORY said he would like to go back and look at the past several bienniums to see how far back the problem goes before proposing a fix. REP. HIMMELBERGER said that the current policy is a default policy agreed to by the current Council and his opinion is that the Council is not stepping up to its responsibilities. He said he intent is for members to take full advantage of the dollars allocated for training opportunities because it benefits not only the caucus and individual members, but the entire legislature. REP. HIMMELBERGER said his goal is to find a more efficient and fair method to administer these funds.
- 00:41:09 REP. MCGILLVRAY said he discussed the issue with Speaker Sales, who reported that caucus members aren't asking for funds. He said that another issue is that members are confused about what programs qualify for funds. REP. HIMMELBERGER said that was his point - that funds are not being used as intended.
- 00:43:17 SEN. WILLIAMS agreed that a standard should be set for proper use of the money. She suggested that the Council send a letter to all leadership and members stating how the money is to be used. She said she is concerned that in this time of budget cuts, if it isn't used, the legislature may never get it back again in future years. She said she would be happy to endorse a letter to leadership and legislators, encouraging the use of this money.
- 00:45:11 REP. PHILLIPS referred to **EXHIBIT 7** and said another issue is that some legislators are claiming salary while others don't; and that there are significant differences in lodging costs as well. He suggested that legislators give a more accurate breakdown of their expenses in order make the process more transparent. SEN. WILLIAMS said that each meeting is handled differently, depending on what NCSL or CSG is offering. She suggested adding a category that would list a breakdown of expenses for each organization pays or what the individual pays.
- 00:49:19 REP. HIMMELBERGER proposed that a subcommittee be appointed to give this issue serious consideration and said that the current method is not working and that the legislature is suffering.

Ideas for changes to legislator travel

- 00:51:42 Ms. Berger reviewed the concerns regarding driving hours per day. She referred members to a table that listed statutes and policies, eligibility criteria, payment amount, and action options (**EXHIBIT 8**). She said that currently, the Council has a "reasonableness" policy but nothing in statute to deal with this issue. Ms. Berger distributed a spreadsheet break down of travel time for each of the current Council members and how the current policy determines what is reasonable travel time (**EXHIBIT 9**). The spreadsheet also listed two options and how reasonable travel time would be determined under each option. Ms. Berger distributed copies of a chart listing legislator round trip miles (**EXHIBIT 10**). Ms. Berger recommended Option 2, which would place a maximum of five hours of drive time per day for legislators, regardless of the length of the meeting.

- 01:06:58 SEN. WANZENRIED asked what the fiscal impact would be if the recommendation was implemented. Ms. Berger said she did not have a bottom line figure and offered to calculate it for him. She said that the variable is difficult to determine is legislator behavior because some would take advantage of the policy and others would not.
- 01:10:27 Ms. Berger referred Council members to the page 2 of **EXHIBIT 8** regarding legislator pay. She said that SEN. STORY and SEN. ESSMANN both requested options for changes in the definition of "legislative day" in order to be able to pay legislators in less than a full day increment for meetings that are shorter in length. Ms. Berger reported that a statutory change would be necessary to accomplish this and recommended that the Council consider language that would revise statutory language to allow legislators to be paid in less than a full-day increment during legislative interims.
- 01:13:36 SEN. STORY asked Ms. Berger to research where the additional \$5 per day for the Speaker of the House and the President of the Senate originated.
- 01:14:46 Ms. Berger asked members to look at pages 3 through 6 of **EXHIBIT 8**, regarding receiptable, non-receiptable lodging, meals, and mileage. She reviewed SB 30, which failed but was intended to define amounts for reimbursement on non-receiptable lodging. She said that the DOA is planning to bring forth legislation on foreign travel but has no plans for other changes. Ms. Berger said she would relay information to the Council as it becomes available.
- 01:16:57 REP. MCGILLVRAY asked how the miles per hour for travel time was calculated. Ms. Berger said it includes actual driving time with stops for meals, rest stops, and other incidental stops; and was determined by a previous executive director.
- 01:18:14 REP. PHILLIPS asked if wages are being paid to legislators participating in Wednesday's training. REP. HIMMELBERGER said that the training was being planned, it was specifically planned for this particular week because several committees were already meeting in Helena. A decision was made not to pay salary for legislators not already in town for meetings in an attempt to keep costs down. Ms. Fox said the decision was based on the statutory definition of an interim legislative day, which is different than a session legislative day.
- 01:20:23 SEN. STORY asked if the motion would go into effect for the next interim. Ms. Berger said, depending on what changes were adopted, they could go into effect immediately. Statutory changes would not go into effect until after the session. SEN. STORY asked if proposed changes would run afoul of the statutory requirements regarding the Legislature not being able to increase its own compensation. Mr. Petesch said it would depend on how the motion is made. He noted that lodging is not considered compensation, but is reimbursement.
- 01:22:45 After a brief discussion, it was agreed that the members could consider the options available and take action at the next day's meeting.

- 01:26:45 SEN. WANZENRIED asked to discuss an issue of concern to him regarding the announcement of the training session and statements made by caucus leaders that were released through the Legislative Information Officer (LIO). He said that certain statements appeared to be outside the scope of what he felt the LIO should be authorized to release and that the LIO should not be pulled into partisan situations. He reminded the Council that care must be taken in how that position is used in order to protect the integrity of the institution and the credibility of the position.
- 01:28:49 SEN. STORY said that leadership of both caucuses released press releases regarding the training. The Republican's press release was provided to LSD for informational purposes but was not intended to be released by the LIO. SEN. STORY said he was not clear on how the press release was handled from there.
- 01:30:24 Ms. Fox said that both the Republican and Democrat press releases actually were released through the LIO, which was a mistake on her part. REP. HIMMELBERGER thanked SEN. WANZENRIED for bringing the matter to the Council's attention. He said that while he was certain it was an accidental occurrence, he agreed that great care must be taken in the future.
- 01:32:27 SEN. STORY asked what the proper procedure is to replace SEN. LASLOVICH on the Council, in light of his recent resignation from the Senate. Mr. Petesch said that a replacement would be selected by the Committee on Committees and that the committee chair (Sen. Esp) has been alerted.

Public Comment

- 01:34:57 No public comment was given.
- 01:35:17 Ms. Berger announced that the legislative branch audit would be before the Legislative Audit Committee tomorrow afternoon and that the branch received a clean audit.

ADJOURNMENT

- 01:36:20 With no further business before the Council, REP. HIMMELBERGER recessed the Council until 8:30 a.m., March 2, 2010.

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