

Council Senate Members

JOHN BRUEGGEMAN
JEFF ESSMANN
JESSE LASLOVICH
ROBERT STORY JR
DAVID WANZENRIED
CAROL WILLIAMS



Council House Members

BOB BERGREN
MARGARETT CAMPBELL
DENNIS HIMMELBERGER
JESSE O'HARA
MIKE PHILLIPS
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MINUTES

May 27, 2009

Room 102, State Capitol
Helena, Montana

Please note: These are summary minutes. Testimony and discussion are paraphrased and condensed. **Exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of the document.**

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.

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COMMITTEE MEMBERS PRESENT

SEN. JOHN BRUEGGEMAN
SEN. JEFF ESSMANN
SEN. JESSE LASLOVICH
SEN. ROBERT STORY
SEN. DAVID WANZENRIED
SEN. CAROL WILLIAMS
REP. BOB BERGREN
REP. DENNIS HIMMELBERGER
REP. JESSE O'HARA
REP. SCOTT SALES

COMMITTEE MEMBERS EXCUSED/ABSENT

REP. MARGARETT CAMPBELL
REP. MIKE PHILLIPS

STAFF PRESENT

Susan Fox, Executive Director, Legislative Services Division (LSD)
Greg Petesch, Director, Legal Services
Dawn Field, Council Secretary
Dave Bohyer, Director, Office of Research and Policy Analysis

AGENDA & VISITORS' LIST

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

COMMITTEE ACTION

The Legislative Council:

- approved the reappointment of Karen Powell as a NCCUSL representative;
- approved the reappointment of Ed Eck as a NCCUSL representative;
- approved the appointment of Michael Wheat as a NCCUSL representative;
- assigned SJR 16 to the Revenue and Transportation Interim Committee;
- assigned SJR 14 to the Economic Affairs Interim Committee;
- approved the remaining recommendations for interim committee assignments; and
- chose meeting dates of June 26, 2009, and August 20 and 21, 2009.

CALL TO ORDER AND ROLL CALL

00:00:49 SEN. STORY called the meeting to order at 1:02 p.m. The secretary took roll, Representatives Margaret Campbell and Mike Phillips were excused (ATTACHMENT #3). **Susan Fox, Executive Director, Legislative Services Division (LSD)**, gave a brief overview of the agenda.

NATIONAL COUNCIL OF COMMISSIONERS ON UNIFORM STATE LAW (NCCUSL) APPOINTMENT

00:03:14 Ms. Fox said Edwin Eck and Karen Powell both wish to continue their service as NCCUSL Commissioners. Ms. Fox referenced a letter received from Ms. Powell (EXHIBIT #1). She said that an additional commissioner could be chosen to fill the appointment vacated by Joe Mazurek and that all of the applicants from the previous pool are still interested in serving (EXHIBIT #2). Ms. Fox announced that if any of the applicants were present, they could address the Council if they wished.

00:05:51 **Greg Petesch, Director, Legal Services, LSD**, explained the purpose and function of NCCUSL is as a states' rights organization and said that historically, Montana has been a large consumer of NCCUSL products. Mr. Petesch reviewed the duties of the position.

00:09:07 Ms. Fox said that a letter of recommendation for Garth Jacobson has been received from Diana Dowling (EXHIBIT #3).

00:09:40 SEN. WANZENRIED **moved** to reappoint Karen Powell as a NCCUSL Commissioner for Montana. There was no discussion or public comment. The **motion passed** on a unanimous voice vote.

- 00:10:14 SEN. LASLOVICH moved to reappoint Edwin Eck. There was no discussion or public comment. The **motion passed** on a unanimous voice vote.
- 00:10:58 SEN. WILLIAMS **moved** to appoint Michael Wheat as a NCCUSL Commissioner.
- 00:11:49 Karen Powell announced that she was available for questioning, should the Council desire.
- 00:12:07 SEN. WILLIAMS' **motion to appoint Michael Wheat as a NCCUSL Commissioner passed** on a 9-1 voice vote, with REP. SALES voting no.

ASSIGNMENT OF INTERIM STUDIES

- 00:13:40 **Dave Bohyer, Director, Office of Research and Policy Analysis, LSD**, discussed the results of the study resolution poll of the legislators and the LSD staff recommendations for committee assignment (EXHIBIT #4).
- 00:18:34 SEN. WANZENRIED noted that HJR 36 - study of family self-sufficiency and economic development - was ranked 5th by the legislators but was recommended "do not study" by the staff. He asked why staff made that recommendation. Mr. Bohyer said the decision was based on the fact that a Governor's Advisory Council recently completed essentially the same study and made recommendations based on its conclusions, all of which were cost prohibitive to implement at this time. Additionally, he said, the interim committees to which HJR 36 could have been assigned already have full work loads.

RESOLUTION SPONSORS TO ADDRESS.

- 00:21:41 **Sen. Cliff Larsen, Missoula, SD 50**, appeared before the Council to ask that SJR 14 - study cooperative arrangements between state agricultural labs - be assigned for study. He explained the background of the issue and said that agencies and leaders have legitimate and important reasons for wanting the study done. He asked the Council to reconsider staff's "do not study" recommendation and to assign SJR 14 for study to the State Administration and Veterans' Affairs Interim Committee (SAVA).
- 00:26:21 **Rep. Gordon Hendrick, Superior, HD 14**, urged the Council to assign SJR 28 - resolution requesting an interim study on recycling and solid waste recovery - as a full study and not a "white paper" study. He said that small and rural communities are in great need of assistance in recycling efforts. He said that it is becoming more and more common to find garbage and items that are difficult to recycle abandoned in forests and rural areas because people have no place to take them. Rep. Hendrick urged the Council to support the study and predicted that much could be done to further recycling through volunteer programs.
- 00:30:48 **Rep. Bob Ebinger, Livingston, HD 62**, spoke in support of HJR 32 - study of impact of historic preservation and strategies for preservation. He asked the Council to review page 22 of EXHIBIT #4 which listed the goals and benefits to be gained by the study. Ms. Fox explained how a "white paper" study is conducted and said that this approach takes little committee time and that the

research analyst reports regularly to the committee on the status and findings of the "white paper".

- 00:35:50 **Jessie McQuillan, Innocence Project**, spoke in support of SJR 29 - study of retention and preservation of DNA evidence by state and local law enforcement agencies. Ms. McQuillan said DNA evidence is a powerful tool and that a discussion is needed to determine sound procedures and practices in doing so. She said that there is a great deal of interest in this study and agreed that it should be assigned to the Law and Justice Interim Committee. She supported including a survey instrument, as suggested by staff, saying that it would create a baseline of information regarding current practice. Ms. McQuillan also referenced letters of support for SJR 29 sent to the Council by Attorney General Steve Bullock (EXHIBIT #5) and from the Montana Innocence Project, the Montana Coalition Against Domestic & Sexual Violence, and the Montana Chiefs of Police, and the Montana Police Protective Association (EXHIBIT #6).
- 00:38:12 **Will Selser, Montana Recycling Association**, spoke in support of SJR 28 - resolution requesting an interim study on recycling and solid waste recovery. He said his organization represents a broad range of groups and that all citizens have a vested interest in recycling in Montana. Mr. Selser said that recycling is not a fad, but an industry that creates Montana jobs. He urged the Council to assign SJR 28 as a full study with public input and not as a white paper study.
- SEN. STORY submitted into the record testimony from Sen. Jim Peterson, Buffalo, SD 15, stating his support of SJR 28 (EXHIBIT #7).
- 00:41:36 REP. HIMMELBERGER **moved** to adopt the recommendations as proposed by LSD staff. He thanked staff for their work and he thanked Sen. Larsen for his support of SJR 14 but said he is concerned about the heavy work load already facing the SAVA Committee. SEN. ESSMANN **made a substitute motion** to accept the staff recommendations with the exception of SJR 16 - study cost of auto insurance and compliance with mandatory requirements. He asked that SJR 16 be assigned to the Revenue and Transportation Interim Committee (RTIC), rather than Economic Affairs Interim Committee (EAIC). SEN. ESSMANN said by doing this, the EAIC could focus solely on the number-one ranked study, SJR 30 - study work comp rates and Montana State Fund.
- 00:46:29 Mr. Bohyer said that RTIC has two statutory studies assigned to it and that assignment of an additional study would create a significant challenge for the Committee. REP. HIMMELBERGER pointed out that EAIC has already done a lot of work on the workers' compensation issue and also has worked with the Workforce Labor Management Council.
- 00:49:47 SEN. ESSMANN said he thought that the RTIC could adjust its workload in order to accommodate the additional study.
- 00:50:51 SEN. LASLOVICH agreed with SEN. ESSMANN regarding the importance of resolving workers' compensation issue. He suggested that perhaps the Legislative Council could take on a study, if the interim committees were

overloaded. Ms. Fox said that the Council has conducted studies in the past and that it is up to the Council to decide if that is what it wants to do.

- 00:53:29 After a brief discussion regarding how interim committees conduct and prioritize their work loads, and how staff considers the work load of each committee when making its recommendations, SEN. STORY asked the Council members to withdraw their previous motions in order that new motions could be made. SEN. ESSMANN and REP. HIMMELBERGER withdrew their motions.
- 01:00:47 SEN. ESSMANN **moved** that SJR 16 be assigned to RTIC. Ms. Fox said that LSD plans to hire two new FTE to help with the work load and that one of the FTE could be dedicated to the RTIC, so that additional resources will be available to the RTIC by the fall.
- 01:02:40 REP. HIMMELBERGER said that he would resist the motion because he has learned that juggling staff and resources to accommodate committees is a complicated matter, involving many factors.
- 01:05:11 SEN. ESSMANN's **motion to assign SJR 16 to the Revenue and Transportation Interim Committee passed** on a 6-5 on a roll call vote, with SEN. WILLIAMS, REP. BERGREN, REP. CAMPBELL (by proxy - Bergren), REP. HIMMELBERGER, and REP. O'HARA voting no (ATTACHMENT #4).
- 01:07:14 SEN. WANZENRIED **moved** to assign SJR 14 - study cooperative arrangements between state agriculture labs - to the EAIC and to let the EAIC decide how it will absorb the additional work into its schedule. The **motion passed** 9-1 on a voice vote, with REP. HIMMELBERGER voting no.
- 01:08:19 REP. BERGREN **moved** to adopt the remaining staff recommendations. Mr. Bohyer said, regarding SJR 9, that while it was not included on the polling list, the staff recommended that it be assigned to the Legislative Finance Committee. REP. BERGREN asked that SJR 9 assignment be included in his motion. The **motion to adopt the revised recommendations passed** on a unanimous voice vote. SEN. STORY asked Mr. Bohyer to prepare a final list of the studies assigned and an estimate of the FTEs that will be needed.
- 01:10:06 Ms. Fox said that the Legislative Council can provide assistance to committees, if necessary, and that the Council will be updated at each of its meetings on the status of interim committee work.

MEETING DATE

- 01:12:24 Ms. Fox referred the members to the agenda and said that she would like the Council to select two meeting dates. After discussion, June 26, 2009, and August 20 and 21, 2009, were chosen as the meeting dates. The August meeting will include a strategic planning session.

PRICES FOR THE 2009 MONTANA CODE ANNOTATED

01:27:13 Mr. Petesch recommended that the price for a full set of the Montana Code Annotated (MCA) be set at \$365 for the public and \$305 for local governments. He also recommended that individual volume prices remain at \$37 and that the CD-Rom version price remain at \$175. REP. BERGREN **moved** to adopt the recommendations. In response to a question from SEN. LASLOVICH, Mr. Petesch explained the statutory requirements regarding the printing of the MCA and that the sales proceeds are deposited into a state special revenue account. The **motion passed** on a unanimous voice vote.

PUBLIC COMMENT

01:32:55 There was no public comment given.

MEMBER ISSUES/AGENDA ITEMS FOR JUNE MEETING

REP. SALES asked to place an issue on the June meeting agenda. He said he would like to discuss bringing forth a Council bill in the 2011 Legislature that would create policy and procedures for dealing with 50-50 split houses and dealing with interim committee assignments. He said that in the past, the minority party leader has been allowed to make interim committee assignment recommendations and that tradition was not followed in the 2009 session.

Ms. Fox said that if other Council members have suggestions to please contact her before the June meeting date. Mr. Petesch said that National Conference of State Legislatures (NCSL) and Council of State Governments (CSG) appointments will need to be taken care of, since summer meetings are approaching.

ADJOURNMENT

01:40:05 REP. BERGREN adjourned the meeting at 2:43 p.m. The Legislative Council's next meeting is scheduled for June 26, 2009, in Helena, Montana.

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