



# Legislative Council

## 64th Montana Legislature

### SENATE MEMBERS

DEBBY BARRETT--Vice Chair  
EDWARD BUTTREY  
ROBYN DRISCOLL  
TOM FACEY  
BOB KEENAN  
JON SESSO

### HOUSE MEMBERS

CHUCK HUNTER--Chair  
BRYCE BENNETT  
SETH BERGLEE  
STEPHANIE HESS  
AUSTIN KNUDSEN  
MARGARET ( MARGIE ) MACDONALD

### COMMITTEE STAFF

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

## MINUTES LOG

August 24-25, 2016  
Room 102, Capitol Building  
Helena, Montana

### August 25, 2016

Please note: This document is a Minutes Log and provides a notation of the time elapsed between the beginning of the meeting and the time at which the item was presented or discussed, a motion was made, or a vote was taken. The narrative presented here is provided only as a guide to the audio or video record of the meeting. The official discussion, motion, or vote is available on the audio or video archive of this meeting. The Legislature does not prepare a transcript of meeting activities. The time designation may be used to locate the referenced discussion on the audio or video recording of this meeting.

Access to an electronic copy of these minutes and the audio or video recording is provided from the Legislative Branch home page at <http://leg.mt.gov>. On the left-side menu of the home page, select Committees, then Interim. Once on the page for Interim Committees, scroll down to the appropriate committee. The written Minutes Log, along with the audio and video recordings, is listed by meeting date on the interim committee's web page. Each of the "Exhibits" is linked and can be viewed by clicking on the Exhibit of interest. All Exhibits are public information and may be printed.

Please contact the Legislative Services Division at 406-444-3064 for more information.

### COMMITTEE MEMBERS PRESENT

REP. CHUCK HUNTER, Chair  
SEN. DEBBY BARRETT, Vice Chair

SEN. EDWARD BUTTREY  
SEN. TOM FACEY  
SEN. BOB KEENAN  
SEN. JON SESSO

REP. BRYCE BENNETT  
REP. SETH BERGLEE  
REP. STEPHANIE HESS  
REP. AUSTIN KNUDSEN  
REP. MARGARET (MARGIE) MACDONALD

### COMMITTEE MEMBERS EXCUSED

SEN. ROBYN DRISCOLL

### STAFF PRESENT

SUSAN BYORTH FOX, Executive Director  
TODD EVERTS, Legal Director  
LAURA SHERLEY, Committee Secretary

## VISITORS' LIST (Attachment 1)

## AGENDA (Attachment 2)

## COMMITTEE ACTION

### RECONVENE

00:00:01 Rep. Hunter reconvened the meeting at 8:36 a.m. The committee secretary called roll. (Attachment 3)

### TELEVISION MONTANA (TVMT)

#### Survey results - Gordy Higgins, Operations Director, Legislative Services Division

00:00:56 Mr. Higgins gave a presentation on the TVMT survey: the Questionnaire (Exhibit 10), and the results of the survey (Exhibit 11).

#### Committee Questions

00:13:21 Sen. Barrett asked if the taxpayers paid for TVMT's equipment.  
00:14:06 Sen. Barrett asked if outside agencies that hold meetings in the Capitol building have the choice of being televised and if they choose to use those services, do those agencies have a financial commitment to pay for those services.  
00:17:39 Sen. Barrett asked Stephen Maly to comment on videotaping the district court's murder trial held in the Old Supreme Court Chambers.  
00:17:42 Stephen Maly, HCTV, said that the District Judge had asked if HCTV would be interested in videotaping the trial.  
00:18:37 Sen. Barrett asked Mr. Maly about videotaping hearings that are not contracted.  
00:20:09 Rep. Hunter asked Mr. Higgins about the choices of programming and the joint process of producing videos between the Legislative Services Division and TVMT, and if the state has any discretion in what is put over the air.  
00:23:24 Rep. Hunter asked for clarification on TVMT's budget.

#### Update on discussions with City of Helena regarding high definition channel - Susan Fox, Executive Director, Legislative Services Division

00:26:07 Ms. Fox discussed her conversation with Ron Alles, City Manager of Helena, about the possibility of the Helena station getting a high definition channel.  
00:27:13 Rep. Hunter said that getting a high definition channel was one of the goals of the Legislative Council. He asked the Council members to think of any legislative action signaling whether that move would be a good idea or not.

#### Advisory Council - Gordy Higgins

00:27:46 Mr. Higgins (Exhibit 12)

#### Committee Discussion

00:31:23 Rep. Hunter discussed an appropriate meeting time for the Advisory Council and agenda topics.  
00:32:03 Sen. Barrett asked Mr. Higgins if he has given notice to Mr. Maly and Charter Communications of the Advisory Council and who might attend the meeting.  
00:32:10 Mr. Higgins said that his vision is that the Legislative Services Division staff the Advisory Council, with the four leaders and the transition partners present

information about what's on their minds for the future, what ideas they have that they can provide information to the Advisory Council, and issues associated with the production, support, and maintenance of equipment.

00:34:19 Sen. Barrett asked if Mr. Higgins had contacted TVMT and Charter and asked about their thoughts regarding the meeting.

00:38:42 Sen. Sesso discussed the limits at which LSD can afford to videotape and broadcast the number of meetings. He would like to explore what TVMT's mission is and if they can contribute to the services provided at the least cost possible.

00:43:21 Rep. MacDonald commented on the importance of the meetings being televised and voiced her concern on allowing other groups outside of state agencies to use the same channel.

00:45:13 Rep. Hunter discussed the role of the staff of LSD in the Advisory Council and the long-term issues that need to be addressed, from transmission to high definition, to the issue of cable vs. live streaming. He asked that staff put together a priority list of "these are the issues we need to address right away" and "these are the long term issues that need to be done over a certain period of time".

### **HCTV Testimony**

00:50:23 Kirsten Faubion, Executive Director, Helena Civic Television (HCTV), acknowledged that a memo was sent to the Legislative Council members regarding contractual issues. She read a prepared statement.

### **Committee Questions**

00:57:14 Sen. Barrett asked Ms. Faubion about the number of contracts that HCTV signed with the Legislative Services in the last 15 years and if any of those contracts have been amended.

00:58:05 Rep. Knudsen asked Ms. Faubion about the appropriation in the contracts and was the Legislature paying HCTV to provide this service, and what appropriation was in the last contract with the Legislative Services Division.

01:02:41 Rep. Knudsen asked Mr. Maly about expenses incurred and HCTV's profit from the last contract.

01:02:55 Mr. Maly explained the unit costs of the services and the hourly rate paid. He said that the problem we are dealing with financially is where HCTV has been in this interim, and the flowering of the interim has cost over 550 hours of uncompensated time.

01:03:10 Rep. Knudsen gave his assessment of the controversy in that HCTV is unhappy with the contract terms it negotiated last cycle, that HCTV feels that they have not been appropriately compensated, and that now that the contract is terminated, HCTV wants compensation after the fact.

01:03:25 Mr. Maly discussed what compensation HCTV is requesting.

01:03:40 Rep. Hunter asked Ms. Faubion if in any of the contracts did the issue of workload not meeting the amount of money come up or discussions where prices went up because of the increase in work.

01:04:05 Ms. Faubion discussed that it is a moral claim of reimbursement for the unpaid video productions.

01:08:03 Rep. Hunter discussed Mr. Maly's claim that HCTV saw no profit in these

contracts but noted revenues from past contracts that saw a profit.

01:10:20 Rep. Hunter asked Ms. Faubion what her proposed solution is so this problem doesn't arise again.

01:11:40 Ms. Faubion said that adding language to the clause "must not exceed" that says "unless more committees are in demand", capping the hours and after the cap, have an hourly rate, depending on what they are asked to cover.

01:14:13 Sen. Facey asked Ms. Faubion what the amount of money was that HCTV was asking for.

01:16:45 Sen. Sesso asked about the concept of guaranteed coverage that HCTV believes that are mandatory levels of service in the contract and that everything has to be broadcast. He would like the "mandatory obligation to broadcast" clarified.

01:17:00 Ms. Fox said that the statute states that "Council shall assist the division in exercising oversight over the contract with the operator to ensure that broadcast conform with the following principles of good conduct. Programming must include each branch of government to the extent possible." She said that the contract language actually says, selected nonlegislative state government activities and events. So it is not mandatory that they cover every executive or nonlegislative state government activity or event.

01:19:10 Sen. Sesso asked if it is mandatory that they have to broadcast every legislative event? Ms. Fox said that it is in the contract that all meetings of interim and statutory administrative committees that are held in the state capital in Helena during the contract period be videotaped and broadcast and that subcommittees may be covered upon mutual agreement between the state's liaison and the contract with adequate scheduling notices.

01:20:01 Sen. Sesso suggested modifying the language of what needs to be covered to provide a flexible arrangement when the money is getting tight near the end of the contract.

01:20:32 Sen. Barrett asked Mr. Maly for his perspective on the statute requirement.

01:23:48 Rep. Knudsen asked Ms. Fox how the contract defines coverage of meetings outside of state agencies.

01:29:00 Sen. Barrett asked Sen. Sesso about supplemental funding.

01:30:52 Sen. Keenan discussed other agencies who want to watch the hearings perhaps contributing to the costs of broadcasting.

Public Comment

01:32:53 Stephen Maly responded to the idea of cost-sharing with executive branch agencies.

01:33:44 Rep. Hunter asked staff to coordinate with the four leaders on a date for the Advisory Council to meet, either by phone or in person.

**2017 SESSION PLANNING**

**Office of Budget and Program Planning's Bill Draft Requests - Amy Sassano, Deputy Budget Director**

01:34:24 Ms. Sassano ([Exhibit 13](#))

### **Motion/Vote**

01:35:30 Sen. Keenan moved to forward the Office of Budget and Program Planning's proposed legislation into the laws process. The motion passed unanimously by voice vote.

### **Revenue Overview - Amy Carlson, Legislative Fiscal Analyst**

01:36:00 Ms. Carlson ([Exhibit 14](#))

### **Committee Questions**

01:42:20 Sen. Facey asked about the statutory requirement for the ending fund balance.

### **Presentation of draft 2019 Biennium Budget for Legislative Branch**

#### **LSD Program 20**

01:43:33 Ms. Fox discussed the following: Preliminary Budget ([Exhibit 15](#)); PG20-MCA State Special Revenue Fund ([Exhibit 16](#)); Biennium Budget Comparison ([Exhibit 17](#)); State Broadcasting Services Budget ([Exhibit 18](#)); and New Proposal-PERS Services Market Adjustments ([Exhibit 19](#)).

#### **Legislative Branch Information Technology Plan 2019 Biennium - Dale Gow, Chief Information Officer, Information Technology Department, Legislative Services Division**

01:49:54 Mr. Gow gave a presentation on the Information Technology Plan. ([Exhibit 20](#))

### **Committee Questions**

02:00:13 Sen. Facey asked about the possibility of writing and inputting amendments to bills in committee during the session because of the Systems Sessions Replacement Project.

02:00:20 Ms. Fox gave a brief overview of a possible design for the next session.

#### **Legislative Branch Information Technology Budget - Dale Gow**

02:00:40 Mr. Gow gave a presentation on the IT Budget. ([Exhibit 21](#))

### **Committee Questions**

02:16:25 Sen. Sesso asked about line items h, i, and j; and asked for an explanation for the cost differential in line items 5.a and 5.b.

02:17:35 Jennifer Simmons, Finance Services Manager, explained how the costs of the two positions were calculated.

02:25:24 Ms. Fox said that the Council needs to adopt the budgets in Programs 20, 21, 27, and 28 as shown in Exhibit 17.

02:27:08 Rep. Hunter asked if the IT Budget and Plan should be voted on separately. Ms. Fox said that the Council just needs to adopt the IT Plan and the IT Budget will be adopted when the Legislative Branch's budget is approved.

02:29:15 Sen. Sesso asked about the \$3 million over the \$2.7 million. Mr. Gow explained that that is an 11% increase.

### **Motion/Vote**

02:30:55 Sen. Sesso moved to approve the Information Technology Plan as presented. The motion passed unanimously by voice vote.

**Break** (Reconvened at 11:16 a.m.)

**LSD Program 20 (continued)**

- 02:41:22 Ms. Fox discussed Operational Costs in Program 20. ([Exhibit 17](#))  
02:42:29 Ms. Simmons explained that the transfers reflect the two Memorandums of Understanding.

**Committee Questions**

- 02:43:04 Sen. Barrett asked Ms. Simmons about the two Memorandums of Understanding.  
02:43:53 Rep. Hunter asked about the \$531 increase from the prior biennium in "Personal Services", what is going to happen with the pay plan statewide, and how was that calculated.  
02:44:00 Ms. Fox presented additional information on the Fiscal Year 16 Market Adjustments. ([Exhibit 19](#))

**Motion/Vote**

- 02:46:42 Sen. Facey moved to approve Program 20 as presented. The motion passed unanimously by voice vote.

**LSD Program 21**

- 02:46:56 Ms. Fox gave a presentation on Program 21, Interim Committees and Activities ([Exhibit 22](#)), and the budgets for the National Conference of State Legislatures, the National Conference of Committee on Uniform State Laws, the Council of State Governments, the Pacific NW Economic Region, and the Legislative Council on River Governance ([Exhibit 23](#)).

**Committee Questions**

- 02:49:49 Rep. Hunter asked if the increase in interim committee meetings and committees requesting a formation of joint subcommittees reflected in the next biennium's projections.  
02:49:53 Ms. Fox explained the increases as shown in Exhibit 22, "Detail of Increases".

**Motion/Vote**

- 02:53:03 Rep. MacDonald moved to adopt the proposed budget for Program 21. The motion passed unanimously by voice vote.

**Legislative Audit and Fiscal Division Budgets**

- 02:53:15 Rep. Hunter asked Ms. Fox discussed adopting the Legislative Fiscal Division's and the Legislative Audit Division's proposed budgets. He asked if the two divisions will have an opportunity to modify their budgets if needed. Ms. Fox said that they will submit their final budget by the October 10th date.  
02:53:40 Rep. Hunter asked the committee if they have any questions on the Audit and Fiscal Division's budgets.

**Motion/Vote**

- 02:54:00 Sen. Facey moved to adopt the Legislative Audit Division's and the Legislative Fiscal Division's budgets. The motion passed unanimously by voice vote.

**Program 20, Long Term IT Projects and Audio Visual Infrastructure Funding Requests**

02:54:31 Ms. Fox gave a presentation on the Session Systems Replacement HB 10 authorization and future projects, and requests for A/V Infrastructure funding. [\(Exhibit 24\)](#)

**Committee Questions**

03:02:05 Sen. Sesso asked about the difference between the two "IT Reserved authorized" in the "available funding" column, and also asked about the amount in "other requests".

03:05:20 Sen. Sesso asked about the "Visual Basic" portion of the budget.

03:05:30 Ms. Fox explained that if the Council wanted to authorize the whole amount of the request for the IT fund, then IT could get started on Visual Basic and wait until the bill drafting and HB 10 portion to be further refined.

**Motion**

03:07:18 Sen. Sesso moved to proceed with the four projects as represented in "Other Requests" and authorize the expenditure of \$940,000 in the IT Reserve Balance.

**Vote**

03:08:19 The motion passed unanimously by voice vote.

03:08:27 Ms. Fox asked about authorizing the expenditure of the \$250,000 that the Council had already authorized for Document and Data Management and to use that in "Other Projects" as it relates to the SSR Project. That amount is in the fourth box "Available Funding", fourth item "IT Reserve Authorized".

03:08:30 Rep. Hunter asked if Ms. Fox would apply those funds to the first box "SSR - existing HB 10 authority".

03:08:40 Ms. Fox said that the second box, "SSR-future projects", are basically the same concept. She didn't want the Council to authorize one thing and have its name changed by the time it is spent.

**Motion/Vote**

03:09:17 Rep. Berglee moved to approve the transfer of the preauthorized funds of \$250,000 from the "IT Reserve authorized" to "Other Projects". The motion passed unanimously by voice vote.

**Feed Bill: Estimates and bill draft requests**

**Session Proceedings Cost**

03:09:37 Ms. Fox gave a presentation on the proposed prices for session proceedings. [\(Exhibit 25\)](#)

**Motion/Vote**

03:11:00 Sen. Buttery moved to adopt the proposed pricing for the Legislative 2017 Session Proceedings. The motion passed unanimously by voice vote.

03:11:15 Ms. Fox stated that this cost will go into the Legislative Services Division portion of the feed bill.

**Session staff pay matrix**

03:11:25 Ms. Fox gave a presentation on the House and Senate Short Term Staff Pay Matrix. ([Exhibit 26](#))

**Motion/Vote**

03:12:35 Sen. Facey moved to adopt the Session Staff Pay Matrix. The motion passed on unanimously by voice vote.

**Feed Bill Request**

03:12:52 Ms. Fox asked the Council to request the Feed Bill for drafting purposes to be adopted in the November.

**Motion/Vote**

03:13:20 Sen. Keenan moved to request the drafting of the Feed Bill. The motion passed unanimously by voice vote.

**Code Commissioner bill draft request**

03:13:33 Mr. Everts asked the Council to request a bill draft for the Code Commissioner.

**Motion/Vote**

03:13:44 Sen. Keenan moved for a Code Commissioner bill draft. The motion passed unanimously by voice vote.

**Annotation Pricing**

03:13:53 Mr. Everts discussed the proposed prices for printing the 2016 Montana Code Annotated. ([Exhibit 27](#))

**Motion/Vote**

03:14:31 Rep. Knudsen moved to approve the proposed prices for the printing of the 2016 Montana Code Annotated. The motion passed unanimously by voice vote.

**Remote testimony pilot discussion**

03:14:51 Ms. Fox gave a presentation on a draft form of policies and procedures for remote testimony, parts of which were taken from the state of Colorado ([Exhibit 28](#)), and a draft Committee Video and Telephone Conferencing Request Form ([Exhibit 29](#)).

**Committee Discussion/Questions**

03:18:55 Rep. Hunter recommended that Ms. Fox work with the Chief Clerk and Secretary of the Senate on the issue of remote testimony.

03:19:14 Sen. Sesso discussed setting up some type of buffer around Helena in order to concentrate on the first year's program for the people who have to travel greater distances to testify.

03:21:03 Rep. Hunter said that a case-by-case decision should be made but a buffer or a mileage-related solution makes sense.

03:22:06 Rep. Hunter recommended collaborating with the Helena Innkeepers Association on this topic.



## **LEGISLATIVE SPACE**

03:22:33 Ms. Fox gave opening remarks on the Legislative Space issue.

### **Capitol projects - Steve Baiamonte, General Services, Department of Administration**

03:23:18 Mr. Baiamonte gave an update on the capitol projects being done by General Services. [\(Exhibit 30\)](#)

### **Committee Questions of Mr. Baiamonte**

03:32:22 Sen. Barrett asked if the sky light over the Senate needs to be initiated by a bill or would that be a project in the long-range building plan.

03:33:35 Sen. Sesso asked if any of the stained glass pieces a part of the sky light improvements.

### **Press Room 336**

03:34:22 Ms. Fox gave an update on the issue of the Press Room 336. She contacted Sheila Hogan, Director of the Department of Administration, about the willingness of the Department to reassign that space and the response she received was that the AP is resisting that concept and the Department hasn't had the time to work on that issue.

03:34:53 Sen. Barrett said that originally that room was in the Senate Chambers and in the control of the Senate. She said the law stated at the time when Bruce Crippen was President of the Senate, that allocation of legislative offices, legislative space in the capital may not be reduced without the consent of the Legislature (2-17-108, MCA). At that time Sen. Crippen gave consent that the room be used by a retired reporter. She said that she searched for contracts from any Senate presidents with any reporters for that room. The Council should introduce a bill to take back that space.

03:38:46 Sen. Keenan asked Sen. Barrett about the terms of the lease for Press Room 336.

03:39:17 Rep. Hunter asked Mr. Everts who has the authority to make decisions and would the Council gain authority through legislative action with a bill or not.

03:40:23 Rep. Knudsen asked who is in charge of the space on the third floor.

03:42:05 Sen. Barrett said that in the 16 years that she has been in office, she has seen legislative authority and legislators losing ground, delegating authority away, losing staff, parking spaces, badges. One thing that she wanted to do as President of the Senate is to promote the Senate and its authority.

03:42:10 Rep. Hunter said that he looks forward to Mr. Everts' report for further discussion at the next meeting.

### **Future planning - Susan Fox**

03:43:14 Ms. Fox gave a presentation on the proposals for potential improvements to legislative space. [\(Exhibit 31\)](#)

## **PUBLIC COMMENT ON ANY MATTER IN THE LEGISLATIVE COUNCIL'S JURISDICTION**

None.

## **OTHER BUSINESS**

### **Senate and House Standing Committees' Membership**

- 03:48:13 Sen. Keenan asked about documents regarding the House and Senate standing committees and members.
- 03:48:17 Ms. Fox said that Legislative Council is required to review this. She said that an analysis of this was done two years ago. She referred the committee to the documents, "Senate Standing Committees" ([Exhibit 32](#)) and "House Standing Committees" ([Exhibit 33](#)).

### **Committee Questions/Discussion**

- 03:49:42 Sen. Keenan asked about the number of members in the Senate Judiciary.
- 03:50:14 Sen. Facey said that the Legislative Council did recommend that the natural resources and education committees switch rooms.
- 03:50:31 Rep. Knudsen said that there was a recommendation to move some of the House Standing Committees from "C" committees to "B" committees.
- 03:51:16 Ms. Fox said that she has had legislators talk to her about wanting the Legislative Council to discuss whether all legislators should have three committees or not.
- 03:52:15 Rep. Knudsen recommended not changing the requirement that legislators serve on three committees.
- 03:53:44 Rep. Hunter voiced his agreement with Rep. Knudsen's comments.
- 03:54:13 Rep. Hunter discussed Rep. Bennett's proposed bill draft on proxy voting.

### **Motion to draft a bill allowing interim committee members to use proxy votes**

- 03:54:42 Rep. Bennett moved to draft a bill to allow members of an interim committee to vote by proxy.

### **Discussion on the Motion**

- 03:54:50 Rep. Knudsen said that he will oppose the motion because interim committees should have the authority over proxy voting and that the committees should get together and make that determination. He said that the Legislative Council doesn't need to put its stamp of approval on it.
- 03:55:33 Sen. Keenan voiced his disagreement to the motion because he did not see a paper copy of the bill draft with the suggested language amendment.
- 03:55:40 Rep. MacDonald said this is an issue that has raised consternation and a mild uproar in the last two interims because it engenders some arbitrary and capricious rulings by chairs. She will support a bill draft.
- 03:57:50 Rep. Hunter commented on the uniqueness of interim committees in that unlike the start of the session where everybody is in Helena, interim committees' scheduling is a much more exact science and sometimes those first interim committee meetings are set at a time when some cannot attend the first meeting. If you are in that circumstance, your ability to weigh in on how the committee is going to work and operate, particularly in the area of proxies, is denied because of scheduling. That is where this proposal makes sense, to give everybody a fair shot at having a say in how a committee is organized and will operate. He will support the proposal.
- 03:58:49 Ms. Fox suggested doing a "not formal" bill draft request to give Council

03:59:24 members a chance to work on the language.  
Rep. Bennett discussed the current proxy vote protocol in the State Administrative and Veterans' Affairs Interim Committee. His intention was to draft the language for review after it is in bill draft format.

04:00:06 Rep. Hunter asked if Rep. Bennett's motion is only for drafting purposes and not for the Council to approve it as a committee bill.

**Vote**

04:00:22 The motion passed on a 6-4 vote, with Senators Sesso and Facey, and Representatives Berglee, MacDonald, Hunter, and Bennett voting yes; and Senators Barrett and Keenan, and Representatives Knudsen and Hess voting no.

**NEXT MEETING DATES**

04:01:05 Ms. Fox said that the next meeting date is set for November 15. After some discussion, Rep. Hunter said that the next meeting date will be November 15, 2016.

**ADJOURNMENT**

04:03:51 With no further business before the committee, Rep. Hunter adjourned the meeting at 12:40 p.m.

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