

**Council Senate Members**  
TOM BECK - CHAIRMAN  
B.F. "CHRIS" CHRISTIAENS  
VICKI COCCHIARELLA  
MACK COLE  
STEVE DOHERTY  
FRED THOMAS



**Council House Members**  
KIM GILLAN - VICE  
CHAIRMAN  
GEORGE GOLIE  
DANIEL MCGEE  
DOUG MOOD  
BRAD NEWMAN  
MARK NOENNIG

# Montana Legislative Council

PO BOX 201706  
Helena, Montana 59620-1706  
(406) 444-3064  
FAX (406) 444-3036

January 25, 2002

## MINUTES

Room 137, 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 documents.**

### COMMITTEE MEMBERS PRESENT

Rep. Kim Gillan, Vice Chairman  
Sen. Mack Cole  
Sen. Steve Doherty  
Rep. George Golie  
Rep. Mark Noennig  
Rep. Doug Mood  
Rep. Brad Newman

### COMMITTEE MEMBERS EXCUSED

Sen. Tom Beck, Chairman  
Sen. B.F. "Chris" Christiaens  
Sen. Vicki Cocchiarella  
Sen. Fred Thomas  
Rep. Dan McGee

### STAFF PRESENT

Lois Menzies, Executive Director, Legislative Services Division (LSD)  
Greg Petesch, Code Commissioner and Legal Director, LSD  
Todd Everts, Environmental Analyst, LSD  
Sally Bush, Legislative Editor, LSD  
Stephen Maly, Research Analyst, LSD

## VISITORS

Linda Adams, Rocky Mountain Representative, Council of State Governments

## COMMITTEE ACTION

- ! Directed staff to draft a joint rule requiring an extraordinary vote for bills containing a termination provision, delayed effective date, or contingency
- ! Direct staff to draft a bill clarifying the Council's appointment authority relating to interstate and international organizations
- ! Selected dates for post-election activities (House and Senate caucuses, Law School for Legislators, and New Legislator Orientation)

## CALL TO ORDER AND ROLL CALL

Rep. Gillan called the meeting to order at 1:00 p.m. All members were present except for Senators Beck, Christiaens, Cocchiarella, and Thomas and Rep. McGee, who were excused.

## APPROVAL OF MINUTES

Sen. Cole moved that the minutes from the November 29, 2001, meeting be approved with no revisions. The motion passed unanimously (ATTACHMENT #1).

## COORDINATION OF HOMELAND SECURITY ISSUES

**Sen. Don Hargrove, Chair, State Administration and Veterans' Affairs Interim Committee (SAIC)**, reported on the 6-hour homeland security meeting that occurred yesterday. He said that SAIC took the lead in coordinating the meeting because his interim committee has oversight responsibilities regarding the Department of Military Affairs and Disaster and Emergency Services (DES). The presiding officers and vice presiding officers of the interim committees or their designees were invited to attend the meeting. The Governor and Executive Branch directors provided extensive updates on security issues.

Sen. Hargrove said that the state's current organization for responding to emergencies is adequate. He noted that DES is the focal point and that all agencies work with DES. He stated that his committee will continue to coordinate security issues with other interim committees and that creation of a special legislative committee is not warranted at this time.

## OVERVIEW OF THE COUNCIL OF STATE GOVERNMENTS

**Linda Adams, Rocky Mountain Representative, Council of State Governments (CSG)**, thanked the Council for Montana's membership in CSG and for the opportunity to serve the state. She said that she was pleased that Montana had eight legislators over the last two years attend CSG's Western Legislative Academy, a program designed to assist newer western state legislators become more effective members of their legislative bodies through professional and personal skills

development. Ms. Adams also noted that two Montanans have recently participated in the Toll Fellowship Program, a leadership development program for state government officials.

She drew the members' attention to a folder containing CSG materials (EXHIBIT #1). One brochure listed the CSG-West committees, of which several Montana legislators serve as members. CSG-West produces a newsletter entitled *Western Legislatures*, which addresses issues of concern to the western states. CSG also publishes a monthly magazine entitled *State Government News*. Ms. Adams said members should consider her as a "resource extender" or a "window on CSG".

**Rep. Linda Holden** said that she was glad that Montana is a member of CSG. She said that she had attended the Western Legislative Academy and found that the program helped to "build effectiveness and excellence in legislators." The Academy program included training in communications, ethics, team building, and time management.

Rep. Noennig said that he also had attended the Western Legislative Academy and found it to be an educational experience with outstanding presenters. He said it was useful to talk to legislators from other states and compare what Montana does the same and differently. He recommended the Academy to interested legislators. Rep. Gillan said that she was an Academy participant, too. She stated that the program was excellent and worth the trip.

#### **REPORT FROM SUBCOMMITTEE ON MULTIPLE VERSIONS OF CODE SECTIONS**

**Greg Petesch, Code Commissioner**, stated that the subcommittee (Sen. Doherty, Rep. Noennig, and Rep. Newman) met this morning to discuss problems resulting from the proliferation of multiple code sections and possible solutions. He noted that maintenance of the code database has become a challenge because of multiple code sections created by the overuse of termination provisions, delayed effective dates, and contingencies. It is becoming increasingly difficult to get the Montana Code Annotated published on time and ensure its accuracy and also to have the database ready for bill drafting. Mr. Petesch reported that the subcommittee's recommendation to the Council is to draft a joint legislative rule requiring an extraordinary vote for applying a contingency, termination date, or delayed effective date.

Rep. Noennig reiterated that this was a perplexing problem. The situation has become so convoluted that staff is spending an extraordinary amount of time dealing with it. Sen. Doherty added that clients will suffer when attorneys cannot decipher the laws because of the use of these provisions.

Members accepted the subcommittee's recommendation to have staff draft a joint rule requiring an extraordinary vote for consideration at the Council's next meeting.

#### **PROPOSED LEGISLATIVE RULE ON APPOINTMENTS TO INTERSTATE AND INTERNATIONAL COMMITTEES**

**Todd Everts, Legislative Environmental Analyst**, reported that at the Council's November

meeting the Subcommittee on Interstate and International Committees (Sen. Thomas, Sen. Christiaens, Rep. Golie, and Rep. Noennig) developed a draft Legislative Council rule on how legislative appointments to interstate and international groups should be made (EXHIBIT #2). The Council deferred action on the proposed rule and directed LSD staff to further analyze the draft rule and authorizing statute (5-11-301, MCA). Mr. Everts said that staff recommends that the Council request that a bill be drafted to clarify the meaning of 5-11-301, MCA. This recommendation was made because the statutory foundation for the proposed rule (5-11-301, MCA) is very convoluted. It fails to clarify some basic and fundamental issues, such as the definition of an interstate or international delegation or committee, funding, the process for making appointments, and filling vacancies.

Rep. Golie asked why the Council wasn't proceeding with the subcommittee's recommendation to adopt a Legislative Council rule. Mr. Everts said that the decision to pursue adoption of a rule was the Council's prerogative; the staff recommendation to clarify the statute was in response to the Council's request for staff to take another look at the proposed rule and current law.

Rep. Golie moved that the Council adopt the proposed rule as presented at the November meeting. Sen. Cole said that he was not ready to vote on the rule at this time. Sen. Doherty stated that he was concerned that the rule did not require recommendations for appointments from minority leadership. In addition, the statute contains some internal inconsistencies regarding funding for legislator participation in interstate and international activities. Rep. Noennig said that the intent of the rule was not to ignore the minority and that it was incumbent upon majority leaders to consult with minority leaders. Rep. Mood noted that there was no definition of "delegations" in the statute and that it was unclear as to who had financial responsibility. Both Rep. Golie and Sen. Doherty questioned how appointments would be made between now and the 2003 session if an interim rule is not adopted.

Rep. Noennig made a substitute motion to adopt the rule as proposed by the subcommittee and to direct staff to draft legislation to clarify 5-11-301, MCA. Rep. Newman questioned what the proposed rule would accomplish in the absence of statutory changes. Rep. Noennig responded that the rule will provide some guidance on appointments to groups such as National Conference of State Legislatures and CSG during the interim. The motion passed 5-2, with Rep. Mood and Rep. Newman voting no.

## **OVERVIEW AND UPDATE ON INITIATIVE REVIEW PROCESS**

**Greg Petesch** stated that the initiative process was added to the 1889 Montana Constitution in 1905. The 1972 Constitution requires the signatures of 5% of the voters in 1/3 of the legislative districts and 5% of the state's total voters to place an initiative on the ballot. He described the 13-step initiative process. The first step requires that the draft of the initiative text be submitted to LSD for review. LSD attorneys review the text in the same manner as a bill draft, checking for constitutional issues, statutory conflicts, clarity, etc. The Division has 14 days to accept, reject, or suggest modifications to the text. The person submitting the text must respond in writing to LSD accepting, rejecting, or modifying each of the recommended changes. If no change is recommended, no response is required. LSD must provide the Secretary of State copies of the correspondence for distribution to the public upon request.

Mr. Petesch noted that the highest number of initiatives submitted for review was 41 during the

1987-88 interim. Last interim 11 issues were submitted. He identified the final step of the initiative process as "dealing with the fallout" after voters approve an initiative. Increasingly, voter-approved initiatives are being litigated.

### **UPDATE ON GOVERNMENTAL BROADCASTING PROJECT**

**Stephen Maly, LSD Research Analyst**, provided an update on Television Montana or TVMT (EXHIBIT #3) covering the following areas: production (content); funding; infrastructure; transmission/distribution; and 2003 preparations. He noted that fundraising for this project has been difficult because of several factors: September 11 terrorist attacks; recession; and local economic uncertainties. The basic weakness has been asking private businesses to build the foundation for a public service without assurance that the Legislature will sustain it. However, Mr. Maly said that the project is likely to receive small amounts of money from foundations as well as through grassroots efforts. He is also conducting some internal fundraising among state agency sources.

In preparation for the 2003 session, sound enhancements have been made to Room 303 and audio improvements to the House and Senate chambers. Speakers will be placed in the Senate hallway and cloakroom. In addition, the current system needs to be professionally tuned up. A request for proposals (RFP) will also be issued for production services.

During a mid-meeting break, members had an opportunity to view a sample of proceedings and events recorded through the TVMT system.

### **SELECTION OF DATES FOR POST-ELECTION 2002 LEGISLATIVE ACTIVITIES**

**Lois Menzies, LSD Executive Director**, presented proposed dates for the House and Senate caucuses, New Legislator Orientation, and Law School for Legislators, a continuing education program for all legislators, and discussed the reasons why the following dates were proposed (EXHIBIT #4).

| <b>Legislative Activity</b>   | <b>2002 Dates</b>  |
|---|--|
| Senate and House caucuses   | Wednesday, November 20 (morning)                             |
| Law School for Legislators (a continuing education program for all legislators) | Wednesday, November 20 (afternoon)                           |
| New Legislator Orientation  | Wednesday, November 20 (evening) through Friday, November 22 |

Members discussed the advantages and disadvantages of consolidating the caucuses, Law School, and orientation session within a three-day period beginning in mid-week. Sen. Cole moved that the dates be adopted as proposed. The motion passed 6-1, with Rep. Golie voting no.

### **UPDATE ON NEW LEGISLATOR ORIENTATION AND CONTINUING EDUCATION**

**Lois Menzies** discussed planning for New Legislator Orientation (EXHIBIT #5). She said that about a dozen staff members have volunteered to assist in developing and delivering the program,

which will consist of plenary and breakout sessions. Ms. Menzies reviewed the proposed curriculum and asked members for suggestions.

Rep. Noennig said that it would be valuable to repeat some of the law school programs and that it was not necessary to completely revamp all of the sessions.

### **BUDGET REVIEW AND DEVELOPMENT**

**Lois Menzies** provided a biennial budget summary and fiscal year 2002 budget update for the Legislative Services Division and Interim Committees and Activities Program (EXHIBIT #6). She also presented a timeline for developing the fiscal years 2004-05 budget and reviewed potential new proposals for the next biennium (EXHIBIT #7).

### **REVIEW OF LEGISLATIVE INTERN PROGRAM**

The Council deferred review and discussion of the legislative intern program until the March meeting.

### **ADJOURNMENT**

The meeting adjourned at 4:35 p.m.

CI0425 2064jjxa.

**Council Senate Members**  
TOM BECK - CHAIRMAN  
B.F. "CHRIS" CHRISTIAENS  
VICKI COCCHIARELLA  
MACK COLE  
STEVE DOHERTY  
FRED THOMAS



**Council House Members**  
KIM GILLAN - VICE  
CHAIRMAN  
GEORGE GOLIE  
DANIEL MCGEE  
DOUG MOOD  
BRAD NEWMAN  
MARK NOENNIG

# Montana Legislative Council

PO BOX 201706  
Helena, Montana 59620-1706  
(406) 444-3064  
FAX (406) 444-3036

January 25, 2002

## MINUTES

Room 137, 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 documents.**

### COMMITTEE MEMBERS PRESENT

Rep. Kim Gillan, Vice Chairman  
Sen. Mack Cole  
Sen. Steve Doherty  
Rep. George Golie  
Rep. Mark Noennig  
Rep. Doug Mood  
Rep. Brad Newman

### COMMITTEE MEMBERS EXCUSED

Sen. Tom Beck, Chairman  
Sen. B.F. "Chris" Christiaens  
Sen. Vicki Cocchiarella  
Sen. Fred Thomas  
Rep. Dan McGee

### STAFF PRESENT

Lois Menzies, Executive Director, Legislative Services Division (LSD)  
Greg Petesch, Code Commissioner and Legal Director, LSD  
Todd Everts, Environmental Analyst, LSD  
Sally Bush, Legislative Editor, LSD  
Stephen Maly, Research Analyst, LSD

## VISITORS

Linda Adams, Rocky Mountain Representative, Council of State Governments

## COMMITTEE ACTION

- ! Directed staff to draft a joint rule requiring an extraordinary vote for bills containing a termination provision, delayed effective date, or contingency
- ! Direct staff to draft a bill clarifying the Council's appointment authority relating to interstate and international organizations
- ! Selected dates for post-election activities (House and Senate caucuses, Law School for Legislators, and New Legislator Orientation)

## CALL TO ORDER AND ROLL CALL

Rep. Gillan called the meeting to order at 1:00 p.m. All members were present except for Senators Beck, Christiaens, Cocchiarella, and Thomas and Rep. McGee, who were excused.

## APPROVAL OF MINUTES

Sen. Cole moved that the minutes from the November 29, 2001, meeting be approved with no revisions. The motion passed unanimously (ATTACHMENT #1).

## COORDINATION OF HOMELAND SECURITY ISSUES

**Sen. Don Hargrove, Chair, State Administration and Veterans' Affairs Interim Committee (SAIC)**, reported on the 6-hour homeland security meeting that occurred yesterday. He said that SAIC took the lead in coordinating the meeting because his interim committee has oversight responsibilities regarding the Department of Military Affairs and Disaster and Emergency Services (DES). The presiding officers and vice presiding officers of the interim committees or their designees were invited to attend the meeting. The Governor and Executive Branch directors provided extensive updates on security issues.

Sen. Hargrove said that the state's current organization for responding to emergencies is adequate. He noted that DES is the focal point and that all agencies work with DES. He stated that his committee will continue to coordinate security issues with other interim committees and that creation of a special legislative committee is not warranted at this time.

## OVERVIEW OF THE COUNCIL OF STATE GOVERNMENTS

**Linda Adams, Rocky Mountain Representative, Council of State Governments (CSG)**, thanked the Council for Montana's membership in CSG and for the opportunity to serve the state. She said that she was pleased that Montana had eight legislators over the last two years attend CSG's Western Legislative Academy, a program designed to assist newer western state legislators become more effective members of their legislative bodies through professional and personal skills

development. Ms. Adams also noted that two Montanans have recently participated in the Toll Fellowship Program, a leadership development program for state government officials.

She drew the members' attention to a folder containing CSG materials (EXHIBIT #1). One brochure listed the CSG-West committees, of which several Montana legislators serve as members. CSG-West produces a newsletter entitled *Western Legislatures*, which addresses issues of concern to the western states. CSG also publishes a monthly magazine entitled *State Government News*. Ms. Adams said members should consider her as a "resource extender" or a "window on CSG".

**Rep. Linda Holden** said that she was glad that Montana is a member of CSG. She said that she had attended the Western Legislative Academy and found that the program helped to "build effectiveness and excellence in legislators." The Academy program included training in communications, ethics, team building, and time management.

Rep. Noennig said that he also had attended the Western Legislative Academy and found it to be an educational experience with outstanding presenters. He said it was useful to talk to legislators from other states and compare what Montana does the same and differently. He recommended the Academy to interested legislators. Rep. Gillan said that she was an Academy participant, too. She stated that the program was excellent and worth the trip.

#### **REPORT FROM SUBCOMMITTEE ON MULTIPLE VERSIONS OF CODE SECTIONS**

**Greg Petesch, Code Commissioner**, stated that the subcommittee (Sen. Doherty, Rep. Noennig, and Rep. Newman) met this morning to discuss problems resulting from the proliferation of multiple code sections and possible solutions. He noted that maintenance of the code database has become a challenge because of multiple code sections created by the overuse of termination provisions, delayed effective dates, and contingencies. It is becoming increasingly difficult to get the Montana Code Annotated published on time and ensure its accuracy and also to have the database ready for bill drafting. Mr. Petesch reported that the subcommittee's recommendation to the Council is to draft a joint legislative rule requiring an extraordinary vote for applying a contingency, termination date, or delayed effective date.

Rep. Noennig reiterated that this was a perplexing problem. The situation has become so convoluted that staff is spending an extraordinary amount of time dealing with it. Sen. Doherty added that clients will suffer when attorneys cannot decipher the laws because of the use of these provisions.

Members accepted the subcommittee's recommendation to have staff draft a joint rule requiring an extraordinary vote for consideration at the Council's next meeting.

#### **PROPOSED LEGISLATIVE RULE ON APPOINTMENTS TO INTERSTATE AND INTERNATIONAL COMMITTEES**

**Todd Everts, Legislative Environmental Analyst**, reported that at the Council's November

meeting the Subcommittee on Interstate and International Committees (Sen. Thomas, Sen. Christiaens, Rep. Golie, and Rep. Noennig) developed a draft Legislative Council rule on how legislative appointments to interstate and international groups should be made (EXHIBIT #2). The Council deferred action on the proposed rule and directed LSD staff to further analyze the draft rule and authorizing statute (5-11-301, MCA). Mr. Everts said that staff recommends that the Council request that a bill be drafted to clarify the meaning of 5-11-301, MCA. This recommendation was made because the statutory foundation for the proposed rule (5-11-301, MCA) is very convoluted. It fails to clarify some basic and fundamental issues, such as the definition of an interstate or international delegation or committee, funding, the process for making appointments, and filling vacancies.

Rep. Golie asked why the Council wasn't proceeding with the subcommittee's recommendation to adopt a Legislative Council rule. Mr. Everts said that the decision to pursue adoption of a rule was the Council's prerogative; the staff recommendation to clarify the statute was in response to the Council's request for staff to take another look at the proposed rule and current law.

Rep. Golie moved that the Council adopt the proposed rule as presented at the November meeting. Sen. Cole said that he was not ready to vote on the rule at this time. Sen. Doherty stated that he was concerned that the rule did not require recommendations for appointments from minority leadership. In addition, the statute contains some internal inconsistencies regarding funding for legislator participation in interstate and international activities. Rep. Noennig said that the intent of the rule was not to ignore the minority and that it was incumbent upon majority leaders to consult with minority leaders. Rep. Mood noted that there was no definition of "delegations" in the statute and that it was unclear as to who had financial responsibility. Both Rep. Golie and Sen. Doherty questioned how appointments would be made between now and the 2003 session if an interim rule is not adopted.

Rep. Noennig made a substitute motion to adopt the rule as proposed by the subcommittee and to direct staff to draft legislation to clarify 5-11-301, MCA. Rep. Newman questioned what the proposed rule would accomplish in the absence of statutory changes. Rep. Noennig responded that the rule will provide some guidance on appointments to groups such as National Conference of State Legislatures and CSG during the interim. The motion passed 5-2, with Rep. Mood and Rep. Newman voting no.

## **OVERVIEW AND UPDATE ON INITIATIVE REVIEW PROCESS**

**Greg Petesch** stated that the initiative process was added to the 1889 Montana Constitution in 1905. The 1972 Constitution requires the signatures of 5% of the voters in 1/3 of the legislative districts and 5% of the state's total voters to place an initiative on the ballot. He described the 13-step initiative process. The first step requires that the draft of the initiative text be submitted to LSD for review. LSD attorneys review the text in the same manner as a bill draft, checking for constitutional issues, statutory conflicts, clarity, etc. The Division has 14 days to accept, reject, or suggest modifications to the text. The person submitting the text must respond in writing to LSD accepting, rejecting, or modifying each of the recommended changes. If no change is recommended, no response is required. LSD must provide the Secretary of State copies of the correspondence for distribution to the public upon request.

Mr. Petesch noted that the highest number of initiatives submitted for review was 41 during the

1987-88 interim. Last interim 11 issues were submitted. He identified the final step of the initiative process as "dealing with the fallout" after voters approve an initiative. Increasingly, voter-approved initiatives are being litigated.

**UPDATE ON GOVERNMENTAL BROADCASTING PROJECT**

**Stephen Maly, LSD Research Analyst**, provided an update on Television Montana or TVMT (EXHIBIT #3) covering the following areas: production (content); funding; infrastructure; transmission/distribution; and 2003 preparations. He noted that fundraising for this project has been difficult because of several factors: September 11 terrorist attacks; recession; and local economic uncertainties. The basic weakness has been asking private businesses to build the foundation for a public service without assurance that the Legislature will sustain it. However, Mr. Maly said that the project is likely to receive small amounts of money from foundations as well as through grassroots efforts. He is also conducting some internal fundraising among state agency sources.

In preparation for the 2003 session, sound enhancements have been made to Room 303 and audio improvements to the House and Senate chambers. Speakers will be placed in the Senate hallway and cloakroom. In addition, the current system needs to be professionally tuned up. A request for proposals (RFP) will also be issued for production services.

During a mid-meeting break, members had an opportunity to view a sample of proceedings and events recorded through the TVMT system.

**SELECTION OF DATES FOR POST-ELECTION 2002 LEGISLATIVE ACTIVITIES**

**Lois Menzies, LSD Executive Director**, presented proposed dates for the House and Senate caucuses, New Legislator Orientation, and Law School for Legislators, a continuing education program for all legislators, and discussed the reasons why the following dates were proposed (EXHIBIT #4).

| <b>Legislative Activity</b>   | <b>2002 Dates</b>  |
|---|--|
| Senate and House caucuses   | Wednesday, November 20 (morning)                             |
| Law School for Legislators (a continuing education program for all legislators) | Wednesday, November 20 (afternoon)                           |
| New Legislator Orientation  | Wednesday, November 20 (evening) through Friday, November 22 |

Members discussed the advantages and disadvantages of consolidating the caucuses, Law School, and orientation session within a three-day period beginning in mid-week. Sen. Cole moved that the dates be adopted as proposed. The motion passed 6-1, with Rep. Golie voting no.

**UPDATE ON NEW LEGISLATOR ORIENTATION AND CONTINUING EDUCATION**

**Lois Menzies** discussed planning for New Legislator Orientation (EXHIBIT #5). She said that about a dozen staff members have volunteered to assist in developing and delivering the program,

which will consist of plenary and breakout sessions. Ms. Menzies reviewed the proposed curriculum and asked members for suggestions.

Rep. Noennig said that it would be valuable to repeat some of the law school programs and that it was not necessary to completely revamp all of the sessions.

### **BUDGET REVIEW AND DEVELOPMENT**

**Lois Menzies** provided a biennial budget summary and fiscal year 2002 budget update for the Legislative Services Division and Interim Committees and Activities Program (EXHIBIT #6). She also presented a timeline for developing the fiscal years 2004-05 budget and reviewed potential new proposals for the next biennium (EXHIBIT #7).

### **REVIEW OF LEGISLATIVE INTERN PROGRAM**

The Council deferred review and discussion of the legislative intern program until the March meeting.

### **ADJOURNMENT**

The meeting adjourned at 4:35 p.m.

CI0425 2064jjxa.