



Economic Affairs Interim Committee

62nd Montana Legislature

SENATE MEMBERS

TOM FACEY--Vice Chair
JOE BALYEAT
EDWARD WALKER
JONATHAN WINDY BOY

HOUSE MEMBERS

TOM BERRY--Chair
CHUCK HUNTER
CAROLYN SQUIRES
GORDON VANCE

COMMITTEE STAFF

PAT MURDO, Lead Staff
BART CAMPBELL, Staff Attorney
CLAUDIA (CJ) JOHNSON, Secretary

MINUTES

October 5 & 6, 2011

Capitol Bldg Room 137
Helena, Montana

Please note: These minutes provide abbreviated information about committee discussion, public testimony, action taken, and other activities. To the left of each section in these minutes is a time designation indicating the approximate amount of time in hours, minutes, and seconds that has elapsed since the start of the meeting. This 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 summary, along with the audio and video recordings, are listed by meeting date on the interim committee's web page. You must have Real Player to listen to the audio recording or to view the video.

COMMITTEE MEMBERS PRESENT

REP. TOM BERRY, Chair
SEN. JOE BALYEAT
SEN. EDWARD WALKER present via teleconference (Oct. 5).
REP. CHUCK HUNTER
REP. GORDON VANCE
SEN. TOM FACEY, Vice Chair

COMMITTEE MEMBERS EXCUSED

SEN. JONATHAN WINDY BOY (Oct. 5)
REP. CAROLYN SQUIRES
SEN. EDWARD WALKER (Oct. 6).

STAFF PRESENT

PAT MURDO, Lead Staff
BART CAMPBELL, Staff Attorney
CLAUDIA (CJ) JOHNSON, Secretary

Visitors/Agenda

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

COMMITTEE ACTION

The Economic Affairs Interim Committee (EAIC) approved:

- the minutes of August 23 & 24, 2011;
- continuation of the Board of Nursing Home Administrators, pursuant to HB 525 review;
- continuation of the Board of Medical Examiners, pursuant to HB 525 review;
- continuation of the Tourism Advisory Council, pursuant to HB 142 review;
- continuation of the Board of Investments annual report, pursuant to HB 142 review;
- the appointment of Sen. Windy Boy and Rep. Berry as liaisons to the Rail Services Competition Council.

CALL TO ORDER AND ROLL CALL

00:01:58 Rep. Berry called the committee to order at 9:00 a.m. The secretary called the roll. Attachment #3.

Motion

00:03:02 Rep. Hunter made a motion to approve the minutes from the Economic Affairs meeting of August 23 and 24, 2011. The motion **passed** unanimously by voice vote. Representative Squires and Senator Windy Boy voted aye by proxy. Attachment 4 and Attachment 5.

AGENDA

Rail Service Competition Council

00:03:36 Ms. Murdo gave an update of the Rail Commission. **Exhibit 1** She said that funds are available for liaisons appointed by the committee to attend rail council meetings. By statute, the EAIC is to appoint a liaison from each house.

Department of Labor and Industry (DLI) Report

00:06:15 **Commissioner Keith Kelly**, distributed a handout explaining the duties and responsibilities of the DLI. **Exhibit 2** He talked about the divisions that make up the department.

Committee comments and questions

The committee asked about the solvency of the unemployment trust fund and related issues as well as how international building codes are set,

00:21:17 Sen. Facey

00:22:18 Roy Mulvaney, administrator of the Unemployment Insurance (UI) Division

00:23:47 Rep. Berry

Workforce Services Division

00:26:37 **Mike Cooney, Administrator, Workforce Division, DLI**, distributed a map showing locations of the Montana Job Service offices, **Exhibit 3**, and explained an organizational chart of the job service offices. **Exhibit 4**

Committee comments and questions

The committee discussed foreign workers and different visas and programs that allow foreign nationals to work in the United States.

00:36:28 Rep. Berry
00:39:23 Sen. Facey

Unemployment Insurance (UI) Division

00:40:27 **Roy Mulvaney, administrator, UI Division, DLI**, outlined the duties performed within the UI division. He had information showing the reimbursable UI rates by employers, **Exhibit 5**, and a chart showing the UI trust fund balance from 2008 to current 2011. **Exhibit 6**

Committee comments and questions

The committee talked about the UI tax schedules paid by employers and the federal government's concerns about UI compliance.

00:53:10 Rep. Hunter
00:54:12 Sen. Facey
00:56:29 Sen. Balyeat
00:57:05 Rep. Berry

00:59:54 **Barbara Wagner, Economist, DLI**, gave a PowerPoint about Montana's unemployment rates and dislocated workers. **Exhibit 7** She identified some common questions about labor market statistics. **Exhibit 8**

01:16:11 **Break**

01:34:25 Rep. Berry called the committee back to order.

Board of Investments

01:34:53 **Carroll South, Executive Director, Board of Investments**, gave a PowerPoint regarding Montana's pensions and investments. **Exhibit 9** He talked about the purpose and duties of the Board. **Exhibit 10**

Committee comments and questions

The committee talked about actuaries, bonds, and who makes decisions about what bonds to buy, annual compound investment returns, and pension funds.

01:38:44 Sen. Balyeat
01:39:53 Mr. South
01:47:11 Sen. Facey
02:06:03 Rep. Hunter

Governor's Office of Economic Development Review

02:24:52 **Evan Barrett, Chief Business Development Officer, Governor's Office of Economic Development**, gave a PowerPoint that explained the infrastructure, growth, and economy in Montana. **Exhibit 11** He provided an overview of a new small business credit initiative.

Committee comments and questions

The committee discussed the new Small Business Administration (SBA) initiative.

02:54:17 Sen. Balyeat
02:55:05 Mr. Barrett

Lunch

04:18:35 Rep. Berry called the committee back to order at 1:16 p.m.

HB 525 Review of the Board of Hearing Aid Dispensers

04:19:24 **Rebecca Wisnoskie, Board member**, gave an overview of the Board of Hearing Aid Dispensers. She talked about the role of the board, **Exhibit 12**, and responded to questions on the EAIC survey. **Exhibit 13**

Committee comments and questions

The committee discussed SB 132 that removes a requirement for audiologists to have a license from the Board of Hearing Aid Dispensers. The committee talked about making a decision whether to maintain the hearing aid dispenser board.

04:23:52 Mr. Campbell
04:24:37 Rep. Berry

04:26:27 **Lee Oines, Audiologist**, described her duties as a board member. **Exhibit 14** She said the board provides consumer protection from companies that are not licensed, and said that the hearing aid dispenser board could be attached to the consumer affairs department of the Department of Justice. She discussed the financial concerns regarding fewer licensees.

Committee comments and questions

The committee discussed proposed increases in hearing aid dispenser licensing of \$1,000 compared with a previous \$450 and changes regarding the board, including the structure of the board, combining it with another board, or placing its consumer protection functions with the Department of Justice.

04:30:06 Rep. Hunter
04:33:00 Jack Kane, Division Administrator for Business Standards (DLI).
04:33:49 Rebecca Wisnoskie
04:40:02 Rep. Berry

Public Comment

04:41:37 **Susan Good Geise, representing an association of Montana hearing aid dispensers**, talked about SB 132 compliance actions and the shrinking numbers of hearing aid dispenser licensees.

Committee comments and questions

The committee continued talking about the board's handling of complaints, costs, and the hearing aid dispensing business.

04:51:03 Sen. Balyeat
04:53:46 Ms. Wisnoskie
04:56:42 Ms. Oines
04:59:26 Sen. Facey

05:00:59 Mr. Campbell
05:02:10 Rep. Hunter

05:02:59 After the discussion, Ms. Murdo informed the committee that the HB 525 review for the Board of Speech-Language Pathologists and Audiologists will not be until the next interim. The committee asked for another meeting on the Board of Hearing Aid Dispensers and took no HB 525 action.

HB 525 Review of the Board of Nursing Home Administrators

Panel Members

05:11:45 Carla Neiman, Administrator of the Plains Nursing Home
05:12:13 Tom Klotz, Nursing Home Administrator, Glasgow
05:12:45 Katheryn Beaty, Nursing Home Administrator, Hamilton

05:13:15 Ms. Neiman talked about the duties of the Board of Nursing Home Administrators. She responded to questions submitted by the committee..

Exhibits 15 & 16

Public Comment

05:17:14 **Rose Hughes, Executive Director, Montana Health Care Association**, stated that nursing homes mostly come under federal regulation, with licensing at the state level.

Motion

05:19:06 Rep. Hunter made a motion to continue the Board of Nursing Home Administrators as is. The motion **passed** unanimously by voice vote. Rep. Squires and Sen. Windy Boy voted aye by proxy.

Montana State Fund Report

05:20:34 Rep. Hunter and Sen. Balyeat reported about a Montana State Fund meeting they had attended.

Workers' Compensation

05:37:13 Rep. Vance gave a report on the Governor's Conference on Workers' Compensation that he attended. One of the topics he reported on was a presentation about the return-to-work program.

05:42:07 Rep. Hunter noted that the DLI Employment Relations Division (ERD) web site contains a variety of information, including court cases and consultant reports.

HB 142 Review of the Tourism Advisory Council

06:03:52 **Ed Defroster, former chair of the Tourism Advisory Council**, said he is an entrepreneur, operating Sun Tours for the past 17 years in Glacier County. He gave an overview of what tourism does for Montana.

06:14:27 **Rhonda Fitzgerald, current chair of the Tourism Advisory Council**, gave her vision of tourism in Montana. She talked about tourism dollars and what the dollars do for Montana. She explained the duties of the Council and its oversight.

Motion

06:21:16 Sen. Facey made a motion to recommend that the legislature keep the Tourism Advisory Council. The motion **passed** unanimously by voice vote. Rep. Squires and Sen. Windy Boy voted aye by proxy.

HB 334 Workers' Compensation Update by the Department of Labor and Industry

06:22:27 **Diana Ferriter, Workers' Compensation Claims Assistance Bureau Chief, Employment Relations Division, DLI**, gave an update of the implementation of HB 334 and other changes to workers' compensation. She distributed and explained the following handouts:

- A report about the new DLI Medical Director **Exhibit 17**
- New guidelines for utilization & treatment. **Exhibit 18**
- A copy of a medical status form. **Exhibit 19**
- A copy of the Montana Workers' Compensation annual report. **Exhibit 20**

Also distributed to committee members was a report prepared by Kris Wilkinson, Fiscal Analyst, LFD, regarding the Montana State Fund 2012 budget analysis of the old and new fund. **Exhibit 21**

Public Comment

None

06:56:56 The committee discussed a letter written by Deborah A. Kimmet regarding licensing boards and restrictions on competition. **Exhibit 22**

06:59:59 Rep. Berry recessed the committee at 3:58 p.m.

Minutes for OCTOBER 6, 2011

Visitors list, Attachment #1
Agenda, Attachment #2

00:00:10 Rep. Berry called the committee back to order at 9:03 The secretary noted the roll. Attachment #3.

Board of Personnel Appeals Update

00:00:18 **Dan Whyte, Legal Staff, LSD**, gave an update on a dispute filed with the Board of Personnel Appeals over the legislature's decision not to pass HB 13, which dealt with a public employees' collective bargaining agreement. **Exhibit 1**

Committee comments and questions

The committee discussed the issue of collective bargaining for public employees.

00:01:16 Rep. Hunter

00:05:59 Sen. Balyeat

Agency Monitoring and HB 142 Review

Department of Commerce Review

00:10:05 **Marty Tuttle, Chief Legal Counsel for the Department of Commerce**, gave an overview of the department's responsibilities. **Exhibit 2** He provided a PowerPoint **Exhibit 3**, that identifies the duties of the Economic Development Advisory Council. Mr. Tuttle expanded on Mr. Barrett's earlier discussion of the Montana State Small Business Credit Initiative (MT SSRC) involvement, which offers financial assistance for small businesses and provided a handout. **Exhibit 4**

Committee comments and questions

The committee discussed various Commerce programs, including the Treasure State Endowment Program.

00:30:19 Rep. Hunter

00:31:30 Rep. Berry

00:35:11 Mr. Tuttle gave a brief overview of the Economic Development Advisory Council as required by HB 142. The Council has not met since April of 2010, but normally meets once a year.

00:45:10 Sen. Windy Boy asked about the criteria for the application process to be a Certified Regional Development Corporation (CRDC). Mr. Tuttle responded that he doesn't know why some areas do not have a CRDC,

00:50:47 Rep. Berry, the committee, and Mr. Tuttle discussed board meetings.

HJR 33 Study of a State Health Insurance Exchange

00:55:40 Rep. Hunter reported on a meeting he attended in Denver regarding health insurance exchanges.

01:04:11 Sen. Windy Boy asked why HR 33 - the health insurance exchange study - is under the EAIC. Ms. Murdo explained why the EAIC has oversight of this issue. There was discussion of other committees that are also covering health care topics.

01:07:32 Rep. Vance and Rep. Hunter discussed a handout regarding the Governor's health exchange proposal, and how it factors in with the committee's discussion of options for a state partnership with a federal health care exchange. **Exhibit 5**

01:09:39 **Frank Cote, Blue Cross/Blue Shield** of Montana, talked about a waiver provision that allows a state to have different guidelines rather than follow federal guidelines on a health insurance exchange.

Committee comments and questions

The committee talked about the waiver provision and other health insurance exchange topics and asked that staff continue to monitor federal and other state actions.

01:10:43 Rep. Hunter

01:11:20 Ms. Murdo distributed and explained a handout on "Exchanges: A Proposed New Federal-State Partnership". **Exhibit 6** Discussion by the committee followed:
01:13:57 Rep. Hunter
01:14:52 Sen. Balyeat
01:18:42 Rep. Hunter
01:19:10 Sen. Facey
01:20:04 Ms. Murdo

Break

Committee comments and questions

There was discussion about Deborah Kismet's letter that had been submitted at the October 5 meeting regarding licensing boards. It was suggested that Ms. Kismet speak to the committee about her concerns.

01:45:44 Sen. Balyeat
01:46:49 Ms. Murdo
01:48:27 Mr. Campbell

Motion

01:55:18 Sen. Balyeat recommended that, pursuant to the HB 142 review of legislative reports, the Board of Investments continue reporting in its current form. The motion **passed** unanimously by voice vote.

Motion

01:57:22 Rep. Hunter made a motion that the committee maintain its oversight of the Economic Advisory Council in its current form for the next two years. The motion **passed** unanimously by voice vote.

01:58:20 Ms. Murdo talked about the DLI apprenticeship and training program report, **Exhibit 7**, which is currently online.

01:59:08 **Dave Tyler, Chair of the Montana Agriculture Development Council**, gave an update of the Growth through Agriculture activities of the Council. **Exhibit 8**

Committee comments and questions

The committee talked about grants and revolving loan funds and default rates related to the Growth through Agriculture program.

02:02:16 Sen. Balyeat
02:05:27 Rep. Hunter
02:06:38 Rep. Berry

January meeting topics

02:09:24 Ms. Murdo reviewed the proposed January 19-20, 2012, EAIC agenda.

Revise April meeting date

02:13:54 Ms. Murdo said the committee meeting scheduled in April has been changed to June 7 and 8, 2012.

02:19:16 Sen. Facey called and asked if the committee meeting could be changed to June 12 and 13 because of school. New meeting dates are: April 20 and June 12 & 13, 2012.

Legislation for committee to consider

02:19:56 Ms. Murdo asked the committee to consider legislation that it might request.

Rule Review

02:21:54 Mr. Campbell reported on the rules from the departments and agencies under the EAIC's purview, stating there are no red flags at this time. He said he is monitoring a rule proposed by the Board of Social Workers and Professional Counselors that is of concern to the Board of Psychologists. **Exhibit 9**

02:25:37 **Lunch**

04:11:36 Rep. Berry called the committee back to order.

Public Comment on the Board of Funeral Service

04:11:50 **Ralph Foster, licensed mortician, St. Ignatius**, distributed a handout that explains the history and issues of morticians. **Exhibit 10**

04:16:13 **Jim Axelson, licensed mortician**, gave an overview of his duties as a mortician.

04:19:12 **Bill Spojaa, Lewistown, Central Montana Crematorium**, stated his views of removing the Board of Morticians. He distributed his testimony. **Exhibit 11**

04:32:44 **Tim Wojtowick, Director of Aging in Lewistown**, suggested the funeral board revert back to the DLI. He said the board does not serve the community.

HB 525 Review of the Board of Funeral Service

04:35:33 **Richard Brown, Chair, Board of Funeral Services**, talked about the duties of the Board. He responded to the EAIC's survey questions. **Exhibit 12**

Public Comment included letters from Mike Thompson, **Exhibit 13**, and Ellen Thompson, **Exhibit 14**. Mr. Brown distributed a handout from Steve Yeakel, executive director for an association of Montana funeral directors. **Exhibit 15**

Committee comments and questions

The committee discussed charges filed against morticians, how the charges are handled and how corrective action is taken. There were questions about duplication with federal regulation, rule enforcement, public complaints, inspections, expenditures and fees, and the number of members.

04:37:08 Mr. Brown

04:38:54 Rep. Vance

04:41:24 Sen. Balyeat

04:43:29 Rep. Berry

04:46:18 Bart Thompson, Board member representing a crematorium

04:52:35 **Jack Kane, Administrator, Business and Standards Division, DLI**, talked about the turnover on the Board of Funeral Service. Mr. Kane also explained how complaints are handled.

05:03:51 **John Tarr, public member on the Board of Funeral Service**, explained what happens when there are complaints against the board. Mr. Tarr said it would be best to keep the Board to monitor the industry.

Committee comments and questions

The committee discussed: why some boards are contentious; how the cost of complaints are paid for; the age of statutes being questioned along with the clarity of laws; and proposed legislation.

05:09:07 Sen. Balyeat

05:12:55 Mr. Tarr

05:15:45 Rep. Hunter

Public Comment on the Board of Medical Examiners

05:23:18 **Jean Branscum, executive vice president of the Montana Medical Association**, endorsed continuation of the Board of Medical Examiners.

05:26:25 **Mike McGree, Emergency Medical Technician and president of an association representing ambulance services**, stated his support of the board.

HB 525 Review of the Board of Medical Examiners

05:28:33 **Anna Earl, M.D., Chair, Board of Medical Examiners, Chester**, described her duties as chair of the board, and explained the board's duties. She responded to the EAIC's survey. **Exhibit 16**

Motion

05:34:35 Rep. Hunter made a motion to maintain the Board of Medical Examiners in its current status.

Discussion

05:36:23 Sen. Balyeat referenced Ms. Kismet's letter and how boards might be restructured.

05:37:00 Ms. Murdo and the committee talked about responses to survey comments by licensed nutritionists in relation to chiropractors and overlapping scopes of practice.

Vote

05:38:22 The motion to maintain the Board of Medical Examiners **passed** unanimously by voice vote. Sen. Windy Boy voted aye by proxy.

Rail Service Competition Council

05:40:08 Rep. Berry appointed Sen. Windy Boy and himself as liaisons to the Rail Service Competition Council. Sen. Facey voted aye by proxy.

05:43:12

Rep. Berry adjourned the Economic Affairs committee at 2:49 p.m.

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