ECONOMIC AFFAIRS IC
SEPTEMBER 11, 2012
Attachment #5

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Economic Affairs Interim Co

62nd Montana Legislature

SENATE MEMBERS
TOM FACEY--Vice Chair
TERRY MURPHY
EDWARD WALKER
JONATHAN WINDY BOY

HOUSE MEMBERS
TOM BERRY--Chair
CHUCK HUNTER
CAROLYN SQUIRES
GORDON VANCE

COMMITTEE STAFF
PATRICIA MURDO, Lead Staff
BART CAMPBELL, Staff Attorney
CJ JOHNSON, Secretary

MINUTES

June 11 & 12, 2012
Room 172

Capitol Bldg
Helena, MT

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.

Hard copies of the exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of the document.

COMMITTEE MEMBERS PRESENT

REP. TOM BERRY, Chair
SEN. TOM FACEY, Vice Chair
SEN. EDWARD WALKER

REP. CHUCK HUNTER
REP. CAROLYN SQUIRES
REP. GORDON VANCE

COMMITTEE MEMBERS ABSENT

SEN. JONATHAN WINDY BOY
SEN. TERRY MURPHY, replacement for Sen. Joe Balyeat, who has resigned

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 committee:

- approved the April 20, 2012, EAI committee minutes.
- voted to move forward with a bill draft, LCmalp, that makes optional instead of mandatory the creation of an advisory council to advise on availability of malpractice insurance;
- approved a proposed request to ask the Legislative Council to move the oversight of the Commissioner of Banking and Financial Institutions from SAVA to EAIC;
- recommended to keep the Board of Psychologists in its current form.

CALL TO ORDER AND ROLL CALL

00:01:18 Rep. Berry called the committee to order at 9:03 a.m. and commented that Sen. Joe Balyeat had resigned and Sen. Terry Murphy had been assigned as his replacement on the committee. Sen. Walker has Sen. Murphy's proxy. The committee secretary took roll. Attachment #3

00:03:04 Sen. Facey made a motion to approve the April 20, 2012 Economic Affairs Interim Committee minutes. The motion **passed** by voice vote.

AGENDA

Public Comment on any issue under the Committee's purview - None

HB 142 reviews of advisory Council/required reports - Pat Murdo

00:03:51 Ms. Murdo gave an update of the HB 142 reports. Attachment #2.

Apprenticeship Report

00:04:58 Rep. Squires talked about her elevator apprenticeship concerns and asked that the apprenticeship discussion be moved to the last committee meeting, with Dave Cook of the Building Codes Bureau and Mark Mackie of the apprenticeship program invited to talk about the program.

Panel on Access to Primary Health Care in Montana In-Fact and Data

- Kristin Juliar, Director, Office of Rural Health and Montana Area Health Education Center
- Dr. Douglas Carr, Billings Clinic
- Lawrence White, University of Montana, Director of Western Area Health Education Center
- Jean Branscum, Montana Medical Association

00:08:41 Ms. Juliar reported on a study of Montana's healthcare workforce and showed a PowerPoint. **Exhibit 1** Ms. Juliar also provided a handout showing the areas of Montana that have access to primary care. **Exhibit 2**

00:21:03 Ms. Branscum distributed a handout explaining collection of data related to the

physician workforce in Montana. She discussed how the data base is maintained, how reports are generated from the data base, and how the data base is updated. **Exhibit 3** Ms. Branscum read a letter from Carter E. Beck, M.D. **Exhibit 4**

00:30:46 Mr. White had a PowerPoint that explains why there is a shortage of primary care physicians in Montana compared to the rest of the nation. **Exhibit 5**

00:42:20 Dr. Carr of the Billings Medical Clinic talked about the undergraduate and graduate education of doctors. He discussed how the Billings Clinic is involved in providing physician internships and residencies for medical students.

Public Comment

00:59:40 Dick Brown, president of the Montana Hospital Association (MHA), talked about family practice doctors and access to primary care in the rural communities of Montana.

01:04:16 Mike Foster, representing Catholic hospitals in Montana, talked about the medical connection between the state and the private sector. He said that improving primary care has been an issue throughout the nation.

Committee comments and questions

The committee asked questions about the cost and quality of medical care homes and data collection efforts, national reporting of benefits, salaries, expansion of medical clinics and renewal of medical licenses, and a bill draft related to medical homes.

01:07:46 Rep. Hunter
01:15:43 Dr. Carr
01:18:16 Sen. Facey
01:19:22 Jean Branscum.
01:28:16 Rep. Squires
01:30:14 Ms. Juliar
01:35:18 Sen. Walker
01:36:49 Mr. Brown
01:37:33 Rep. Berry

01:37:50 Mr. Kane will provide information regarding the physician licensure process at the committee's next meeting in September.

11:40 a.m. **Break**

Rules vs. Position Papers - what best serves the public?

01:49:45 David Niss, Staff Attorney for the Legislative Services Division, talked about how policy and rules are adopted. He explained language in the Montana Administrative Procedure Act (MAPA). He talked about the adoption of MAPA in 1971, and explained how it defines rules.

02:01:46 Mark Cadwallader, Attorney for the Department of Labor and Industry (DLI), talked about the definition of a rule vs. policy and what is a public use and an internal use.

Committee comments and questions

The committee talked about the difference between a rule and a policy and what's in statute.

02:07:49 Sen. Walker
02:12:23 Mr. Cadwallader
02:15:53 Ms. Murdo
02:16:51 Sen. Walker

Administrative Attachment and what does it mean for licensing boards

02:19:20 Ms. Murdo distributed a handout regarding administratively attached agencies. She explained how various boards are attached to these agencies. **Exhibit 6**

02:22:47 Christian Mackay, executive officer of the Department of Livestock (DLS), gave an overview of the financial situation of the Board of Horse Racing, which is administratively attached to DLS.

Committee comments and questions

The committee discussed: the board's deficit of $600,000-plus, why and what caused the shortage of funds; simulcast; and budgeting supervision without policy supervision.

02:27:30 Rep. Berry
02:29:39 Rep. Hunter
02:29:42 Mr. Mackay
02:32:27 Rep. Squires

02:34:48 George Harris, administrator of the DLS Central Services, distributed a handout and provided more information on the Board of Horse Racing deficit. **Exhibit 7**

Committee comments and questions

02:43:20 Rep. Hunter
02:47:39 Mr. Harris

02:59:19 Ms. Murdo read a message from Dale Mahlum, presiding officer of the Board of Horse Racing. The message described his vision for the board in the future. **Exhibit 8**

Committee comments and questions

The committee discussed: the Board's policies and how they directly relate to the funding problem; the responsibility for paying the board's debt and where the money is coming from; and how board members are selected by the Governor.

03:01:23 Rep. Hunter
03:02:40 Mr. Mackay
03:04:27 Rep. Berry
03:04:58 Rep. Vance

03:05:46 **Lunch**

04:08:21 Rep. Berry called the committee back to order.

Board of Hearing Aid Dispensers

04:08:33 Kelly Hubbard, Department of Justice, gave an overview of the Office of Consumer Protection, and explained how the office handles complaints, such as bad marketing. Ms. Hubbard talked about how the Office of Consumer Protection and the DLI have worked and might work together to handle complaints before the Board of Hearing Aid Dispensers .

04:22:33 Gene Bukowski, chairman of the Board of Hearing Aid Dispensers, said it is important for the board to evaluate the standards to provide better service for the public's welfare and safety.

04:24:05 Rebecca Wisnoskie, Hearing Aid Board member, talked about contractual issues and complaints. She said that none of these complaints are about public health and safety. She discussed the financial burden that some repeat offenders have caused the board.

04:27:52 Susan Good-Geise talked about the cost of licenses for the dispensers due to the cost of litigation of repeat offenders.

Committee comments and questions

The committee talked about the consumer protection office's ability to issue fines against offenders and the distribution of the fines, either to the department or back to the consumer. There was discussion about whether reorganization of the complaint process is feasible and whether the Department of Justice had sufficient resources to prosecute offenders. Ms. Hubbard and Mr. Kane will report at the September committee meeting on possible collaborative solutions.

04:30:43 Rep. Hunter
04:32:20 Ms. Hubbard
04:33:18 Rep. Berry
04:34:30 Mr. Kane
04:36:33 Rep. Squires
04:44:40 Rep. Berry
04:44:58 Sen. Facey
04:46:42 Sen. Squires
04:49:08 Rep. Hunter
04:49:50 Rep. Berry

Restraint of trade concerns and unfair trade practices

04:50:35 Bart Campbell, legal staff for the Legislative Services Division, talked about licensing boards and competitive issues inherent to the boards. He did not discuss but distributed a letter from Rick Miller, a denturist, which includes a petition of names and addresses of Montana residents and licensed professionals **Exhibit 9** who claim the Board of Dentistry does not adhere to the standards in the Montana Board Member Training Manual or to certain Montana statutes.

Public Comment

05:17:09 Cliff Christenot, a private citizen and licensed solo practitioner denturist, talked about having denturists and dental hygienists on a different board rather than on

the Board of Dentistry as they now are. He said the Board of Denturist are willing to pay up to $1,000 for a license if that is the cost associated with a new board. He questioned the behavior of the current Board of Dentistry.

05:20:58 Debra Kimmet talked about unlicensed professions and practices and suggested how to find solutions for the Board of Dentistry.

05:23:55 Greg Van Horssen, representing the Montana Dental Association (MDA), said that the association wanted to be on record showing their interest in this issue. The MDA will continue to monitor and participate as necessary in the discussions revolving around this issue.

Commissioner of Securities and Insurance (CSI) review

05:26:30 Adam Schafer, Montana Deputy Commissioner of Securities and Insurance, distributed and explained an analysis required under HB 334 in the 2011 session of the Montana State Fund reserves and rates. **Exhibit 10**

05:28:00 Steve Matthews with CSI provided more explanation of how the office conducts reviews of private workers' compensation insurers and explained a handout by Mari Kindberg, also of CSI, on risk-based capital. **Exhibit 11**

05:34:08 Daniel Reppert, FCAS, MAAA Principal, gave an overview of claim reporting practices for workers' compensation.

05:46:35 Laurence Hubbard, CEO, Montana State Fund (MSF), commented about MSF and Montana's competitive market.

Committee comments and questions

The committee discussed workers' compensation; actuarial analysis of reserves and the MSF surplus, and the financial status of MSF.

05:59:31 Rep. Squires
06:05:01 Sen. Facey
06:06:33 Rep. Hunter
06:06:50 Mr. Matthews

State Fund Report

06:08:18 Rep. Hunter reported on the issues discussed at the last MSF meeting he attended.

06:12:51 Sen. Walker has been appointed to replace Sen. Balyeat as a State Fund liaison.

Insurer discussion of the Affordable Health Care Act

06:15:18 Angela Huschka, representing New West, reviewed changes in her firm's operations to focus on Medicare Advantage offerings and noted that the changes to the Affordable Care Act affect other commercial insurers more than those dealing primarily with Medicare Advantage or Medicare supplemental plans.

06:22:16 Todd Lovshin, Vice President of Cigna/Allegiance in Montana, gave an overview of Allegiance (one of the Cigna companies), and the companies' compliance with health care reforms.

06:27:58 Ken Provencher, CEO and President of Pacific Source, based in Springfield, Ore., said Pacific is also involved in Medicare Advantage as well as insurance for the non-Medicare market. He talked about the Affordable Health Care Act, and said if the U.S. Supreme Court doesn't rule it illegal and said there are four factors that will help determine what Pacific will do with future policies:

- the U.S. Supreme Court decision,
- the elections in November,
- the time frame for changes in the law, and
- the state's budget.

06:33:35 Mary Belcher, General Counsel, Blue Cross/Blue Shield (BC/BS) of Montana, gave an overview of the BC/BS approach if the Affordable Health Care Act stays intact after the U.S. Supreme Court ruling or if it doesn't.

06:39:42 John Lotus, representing Assurant Health talked via telephone. He said that Assurant is also maintaining their program until the Affordable Health Care Act is turned down or accepted by the U.S. Supreme Court.

Public Comment

06:40:45 Ray Kuntz, Chairman and CEO of Watkins Shepard Trucking, and chairman of American Trucking and Transportation Insurance Co., said that today he is representing the board of the Montana Health CO-OP. He gave an overview how the CO-OP plans to handle health insurance for its members.

Break

Panel discussion on Medical Provider Licensing Concerns

07:01:52 Jean Branscum, Executive Vice President, Montana Medical Association (MMA), read the mission statement of the Board of Medical Examiners, and discussed the MMA's concerns. **Exhibit 12**

07:10:49 Dr. Bruce Robertson, Bozeman Deaconess, compared the licensing process when he started 20-plus years ago with the process today. When he first came to Montana he applied for a license to practice in January and received his license in March. Now, he said, it takes months for the application process to go through the Board of Medical Examiners.

07:15:21 Dr. Paul Cook, president of the Rocky Mountain Health Network in Billings, said he teaches medicine to interns. He gave an example of the process he has gone through to apply to practice medicine in Montana.

07:24:23 Sheila Wirt, medical staff coordinator with Northern Montana Hospital in Havre, gave an overview of her duties and how Northern processes applications when filling medical positions. Ms. Wirt proposed that the licensing process be

expedited for critical need physicians in rural Montana. She had a handout of a list of the Montana Association of Medical Staff Services (MTAMSS) members that have signed a petition showing their concern with the timeliness and response to the Board of Medical Examiners regarding the licensing of medical practitioners in the state of Montana. **Exhibit 13**

07:32:05 Dr. Anna Earl, practicing physician in Chester and chairman of the Board of Medical Examiners, gave an overview of how the Board of Medical Examiners processes practitioners' applications. She said she feels the Board has made the process more streamlined. She answered questions that had previously been submitted by the committee. **Exhibit 14** A handout of the physician application was distributed for the committee to view. **Exhibit 15**

Committee comments and questions

The committee discussed: the application process to practice in Montana, the board's decision to no longer request character references as part of applications, the length of the application, and a new computer system that will handle on-line applications.

07:42:16 Rep. Vance
07:43:43 Dr. Cook
07:45:01 Dr. Robertson
07:46:49 Dr. Earl
07:48:43 Rep. Berry
07:49:06 Rep. Squires
07:53:40 Rep. Hunter
07:55:05 Mr. Kane
07:57:11 Sen. Walker
08:00:35 Jean Branscum
08:00:59 Sen. Facey
08:06:04 Rep. Vance
08:07:57 Ms. Murdo
08:08:28 Mr. Campbell
08:12:30 Dr. Robertson

08:13:39 Kay Brown, director of medical staff at St. Vincent Healthcare, talked about expediting the application process to practice medicine in Montana. She said that the Board of Medical Examiners will not accept faxes or e-mail and that its mail can sit for weeks before an application is reviewed.

08:17:14 Bill Warden, representing Benefis Hospital, distributed a letter that explains Benefis Hospital's issues with the Board of Medical Examiners processing time. **Exhibit 16**

08:17:53 John Flink, Montana Hospital Association (MHA), talked about how the MHA is working with MMA and the Board of Medical Examiners.

08:23:00 Rep. Berry recessed the committee at 5:25.

RECONVENE
JUNE 12, 2012

Visitors list, Attachment #1
Agenda, Attachment #2

00:00:17 Rep. Berry reconvened the committee at 9:06 a.m. The secretary noted the roll. Attachment #3

00:00:51 The committee discussed dates for the last EAI committee meeting.

Rule Review
00:04:32 Bart Campbell, legal staff, LSD, said there is nothing to report on rules at this time.

00:05:56 Ms. Murdo gave an update of bill draft requests.

Motion
00:07:17 Sen. Facey made a motion to have the committee move forward with LCmalp **Exhibit 1**. The motion **passed** unanimously by voice vote.

Presumptive Illness for Firefighters
00:10:27 Joe Sands, Firefighters Local 521, Billings, talked about presumptive illness for firefighters, such as cardiovascular disease, and commented on a study done in 2010-2011 by the Labor-Management Advisory Council. He referred to a handout showing the health risks that firefighters are exposed to. **Exhibit 2** He talked about the various forms of cancer that firefighters are subjected to from chemicals. He said the federal government passed a bill called the Responder Act, which will cover certain presumptive illnesses for responders to the World Trade Center on Sept. 11, 2001. **Exhibits 3 & 4** Mr. Sands asked that the committee sponsor HB505 as it was amended in the 2011 Legislature. **Exhibit 5**

00:20:37 Doug Neil, Montana State Fireman's Association, reiterated comments by Mr. Sands. He urged the committee to carry HB 505, and introduce it in the upcoming Legislature.

00:25:56 Ann Komac, claims manager for the Montana Municipal Interlocal Authority (MMIA), Helena, said the MMIA administers a "risk retention pool" for cities and towns in Montana, providing property, liability, workers' compensation, and employee benefits for local government employees, including firefighters. She discussed her concerns with presumptive illnesses and recommended that the committee leave well enough alone. She stated that firefighters have a right to file a claim as long as they have proof of work-related injury.

00:30:08 Harold Blattie, Executive Director of the Montana Association of Counties (MACo), said that other states do have presumptive illness provisions. He discussed HB 505 from the 2011 Legislative session and said "that coverage [of certain illnesses] is not precluded, it's just the burden of proof." [A presumptive illness provision would require a lesser burden of proof for the firefighter.]

00:34:19 Nancy Butler, General Counsel, Montana State Fund, talked about the financial impact of the presumptive illness provision.

Committee comments and questions

The committee discussed presumptive illness for firefighters and occupational hazards. Rep. Hunter said he would contact a national workers' compensation analysis group to see what presumptive illness for firefighters costs other states..

00:36:13 Sen. Facey
00:38:13 Rep. Hunter
00:41:17 Rep. Squires
00:42:22 Ms. Butler
00:44:45 Ms. Komac

Review of HJR 33 - draft report onAffordable Care Act and health insurance exchanges

00:51:03 Ms. Murdo asked the members to e-mail any comments they may have regarding HJR 33. She had a handout outlining the committee's activities, and gave an overview of the issues from the 2011 Legislative session. **Exhibit 6**

00:55:34 Rep. Berry commented that the committee has discussed HJR 33 enough, and until the U.S. Supreme Court gives its ruling, to keep it on the back burner. All the committee members agreed.

HB 525 report

01:00:21 Ms. Murdo gave an update of HB 525, and said she will include the boards responses in her committee report.

01:01:51 **Break**

Committee Work Session

01:20:14 Ms. Murdo gave an update of the work session for the remaining meeting.

Motion

01:22:53 Rep. Squires made the motion to move interim committee oversight of the Commissioner of Banking and Financial Institutions from SAVA (State Administration Veterans Affairs committee) to EAIC. The motion **passed** unanimously by voice vote.

01:23:50 Ms. Murdo asked members if anyone was interested in attending the State Workers' Compensation Conference at Big Sky.

01:26:46 Sen. Facey and Ms. Murdo discussed the volunteer firefighters Workers' Compensation issue and whether a bill draft might be a committee bill.

01:28:12 Rep. Hunter talked about a bill draft by the DLI for hygienists and denturist.

01:28:39 Rep. Squires asked that Dr. Chamberlain with the Board of Dentistry provide an update to the committee on changes in the structure of the board.

01:30:21 Ms. Murdo said if anyone is interested there is a 3-day training session, Safety Fest Montana, at MSU-Great Falls College of Technology.

Board of Psychologists

01:30:51 Michael Butz, talked about the duties of the Board of Psychology, and the services the board provides. He distributed the board's response to questions by the committee about the board. **Exhibit 7**

01:36:20 George Watson, board chair, provided more information about the board.

01:37:19 Stuart Hall, vice-chair of the Board, further described the board's duties.

Committee comments and questions

The committee talked about prescriptive authority for psychologists and psychologists working with Indian Health Services and Veterans' hospitals.

01:38:34 Rep. Squires
01:39:23 Dr. Butz
01:42:01 Sen. Facey
01:42:37 Rep. Hunter

Motion

01:43:51 Rep. Hunter made a motion that the board be maintained in its current form. The motion **passed** unanimously by voice vote.

01:44:53 Rep. Berry said the committee will discuss the Affordable Care Act at its last meeting in September.

01:45:49 Rep. Berry adjourned the EAI committee at 10:55 a.m.