



## Economic Affairs Interim Committee

### 60th Montana Legislature

#### SENATE MEMBERS

KEN HANSEN--Vice Chair  
ROY BROWN  
FRANK SMITH  
DONALD STEINBEISSER

#### HOUSE MEMBERS

SCOTT MENDENHALL--Chair  
MIKE MILBURN  
MICHELE REINHART  
BILL THOMAS

#### COMMITTEE STAFF

ANDREW GEIGER, Lead Staff  
BART CAMPBELL, Staff Attorney  
CLAUDIA (CJ) JOHNSON, Secretary  
LISA JACKSON, Staff Attorney for HJR48  
PAT MURDO, Staff for HJR48 & SJR13

# MINUTES

February 7, 2008 9:00 a.m.

Heritage Hall, MSU Great Falls  
2100 16th Avenue South

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

Please note: These minutes provide abbreviated information about committee discussion, public testimony, action taken, and other activities. The minutes are accompanied by an audio recording. For each action listed, the minutes indicate the approximate amount of time in hours, minutes, and seconds that has elapsed since the start of the meeting. This time may be used to locate the activity on the audio recording.

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#### **COMMITTEE MEMBERS PRESENT**

REP. SCOTT MENDENHALL, Chair  
SEN. KEN HANSEN, Vice Chair  
SEN. ROY BROWN  
SEN. FRANK SMITH  
REP. MIKE MILBURN  
REP. MICHELE REINHART  
REP. BILL THOMAS

#### **COMMITTEE MEMBERS ABSENT**

SEN. DONALD STEINBEISSER

#### **STAFF PRESENT**

ANDREW GEIGER, Lead Staff  
CLAUDIA (CJ) JOHNSON, Secretary  
LISA JACKSON, Staff Attorney for HJR48  
PAT MURDO, Staff for HJR48 & SJR13

## Visitors/Agenda

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

## COMMITTEE ACTION

- the committee approved the minutes from November 7, 2007

## CALL TO ORDER AND ROLL CALL

00:00:01 REP. MENDENHALL opened the hearing at 9:15 a.m. and welcomed everyone to the EAIC meeting. The secretary called the roll. Attachment #3. Sen. Steinbeisser is absent. REP. MENDENHALL explained why the committee is here in Great Falls today, and explained what the interim committee does. He further explained that when the Committee first met in Helena they made a unanimous decision to travel the state during this interim in recognition of the long distances citizens travel during the legislative session, but the goal for was to recreate what takes place in Helena. He mentioned that the agenda had been arranged to have folks not only from Cascade County, but also Pondera, Teton and Toole to bring government a little bit closer to the region.

SEN. KEN HANSEN welcomed everyone and said this committee is coming to you instead of you coming to the state capitol in Helena to show that we want to work together. Senator Hansen said he concurred with everything Rep. Mendenhall said and further commented that it was a pleasure to be in this new facility at MSU Great Falls. He noted that the agenda will have a pretty strong agricultural component and that the committee recognized the economic importance of the Golden Triangle.

**Motion** SEN. HANSEN made the motion to approve the minutes from November 7, 2007, that took place in Miles City. The motion **carried** unanimously by voice vote. SEN. STEINBEISSER voted aye by proxy. Attachment #4

**Agenda:** **Value-Added Agriculture in the Golden Triangle**  
A panel discussion relating to SJR 13, a study of value-added agriculture, speaking to the issue in Montana generally, but with a special focus on initiatives and issues in the Golden Triangle. Topics will include farm-to market initiatives, large-scale value added agriculture, and public/private interactions.

**Panelists:** David Tweet, Regional Manager, Anheuser-Busch Agricultural Resources, Inc.  
Mark Black, Barley Program Manager, Archer Daniels Midland Company, a International Malting Company (ADM)  
Randy Gilbertson, General Manager, Pasta Montana, Great Falls  
Kim Thiel-Schaaf, Grant Writer, Great Falls Montana Development Authority

REP. MENDENHALL introduced David Tweet, Anheuser-Busch.

- 00:03:12 David Tweet, Anheuser-Busch, opened by informing the committee that he grew up in North Central Montana. He talked about his position with Anheuser-Busch, and that is to source the highest quality malting barley for Anheuser-Busch. He stated that Montana is a great place to grow malting barley. He talked about the process after the barley is harvested and put in a warehouse where it is sorted and stored until ready for use. He had several samples of malting barley for the committee members to view. Mr. Tweet distributed and explained a power point presentation that addresses the Montana Barley Production. **EXHIBIT 1** He explained each frame. He talked about the facilities in Montana and how they are contributing to the economy, such as investment, the number of employees, wages, benefits, and taxes paid. He said that contracted barley growers received \$57 MM from the 2005 crop. He explained that Montana barley is in one of every six bottles of Anheuser-Busch products sold in the United States. He addressed the concerns of an excise tax that is aimed at a successful agricultural product that will result in less beer sold, cheaper beer sold, and how it will have a negative impact on Montana farmers. He closed stating that malting barley is an established value-added product for Montana.
- 00:08:03 REP. MENDENHALL introduced Mark Black, ADM
- 00:08:21 Mark Black, International Malting (ADM), distributed a power point presentation. **EXHIBIT 2** He explained each slide. He talked about using the water from Giant Springs, and said that ADM is one of the largest users of natural gas in Montana, a major electrical user in Montana, and they are environmentally safe. He talked about the direct farm program. He said that ADM came to Montana because Montana has the best barley. He described what malt barley is: it is any grain that is beyond the process of germination in a controlled environment. He has been involved with many of the beer companies, bagels, and other various products. He talked about by-products, and said they want to continue to support the farmers in the barley production. He said that ADM is also training and educating people in Montana to work at the companies.
- REP. MENDENHALL introduced David Oien, Timeless Seeds, Inc.
- 00:20:00 David Oien, Timeless Seeds, Inc., Conrad, thanked the committee for traveling around the state to stay in touch with the public. He is the manager and co-founder of Timeless Seeds. Mr. Oien distributed a handout. **EXHIBIT 3** Mr. Oien said that Timeless Seeds is known nationwide and worldwide for their unique and high quality lentils, peas, flax, and cereal grains. He explained how his business operates, the manufacturers that are involved, and the repackagers. He said they also offer part-time employment to the developmentally disabled.
- 00:26:36 Mr. Oien said when products are shipped out-of-state, our dollars, and the economy also go out-of-state. He named primary businesses that he relies on for survival. He talked about putting food and food processors into the rural economy. He said that working with Mission Mountain Food Enterprise Center in Ronan has been a great source of advice and direction as Timeless Seeds moves into the direction of value-added products. He talked about a company in Alberta, Canada that has increased the value of his company's product by five-

fold. He said if these programs could be more integrated and build a more technical assistance and funding infrastructure, these programs would bring about regional centers that would be centrally located. He talked about the Montana Manufacturing Extension Center (MMEC), and said they were invaluable in helping his company evaluate their expansion project and continue in an ongoing basis. He said that "MMEC is a stellar example of public-private partnerships."

Mr. Oien addressed seven issues:

1. Food Nutrition and processing at our universities
2. Montana Food Development Center - a model like Mission Mountain Center that would integrate examples provided by the Nebraska Food Development Center in Lincoln, NE and the Alberta Food and Development Center in Leduc, Alberta. They would have a single, sufficiently funded and strategically located facility on or near a University campus that would have staff and expertise to take a food product from conception through product development to the marketplace.
3. Food scientist and food nutritionist positions at the universities and technical schools who would work with the crop development to agricultural producers and processors.
4. Food marketing - he recommends creating an extension center that would provide technical assistance in marketing and successfully launching hundreds of value-added food products for existing and new businesses.
5. Integrated investment incentives for businesses in every category. There are financing programs available through the Department of Commerce, the Department of Agriculture, and various federal agencies, but he said these programs are exclusive and are barriers for smaller start-up enterprises. He talked about a viable food processing infrastructure that would include the entire spectrum of scale and size, from the multi-national corporation with many resources to assisting an industry wishing to take the next step. He said that enterprises that don't need assistance are offered millions of dollars while the small enterprises that need only a little assistance is offered nothing.
6. Venture capital at the table as stakeholders - in the development of a more viable value-added food industry, Montana has been exporting wealth out of this state for a century. He said some of it is finally coming back in the form of wealthy individuals and socially-responsible venture capital, but he said by nature the food industry has a much lower return on investment than high tech industry and pharmaceuticals.
7. Increase the use of Montana-grown food in schools, state institutions, and restaurants - with the increase cost of energy and transportation, and the awareness of food safety and nutrition issues - the argue is strong for

supporting effort to not only develop local food production and processing, but also more localized consumption. He said that Montana can literally support many small to mid-size businesses.

00:34:28 Mr. Oien summarized that if a small company like Timeless Seeds can sell its products from a small rural town in Montana to the nation and to the world, there is no reason why other businesses in Montana cannot present their foods in New York, Los Angeles, and throughout the world. But, he stressed if it takes everybody 20 years to do it, it won't happen in time to save what's left of rural towns like Circle, Wolf Point or Conrad. He said it takes vision, cooperation, and hard work.

00:35:22 Randy Gilbertson, General Manager, Pasta Montana, Great Falls, informed the committee that his company has been in business going on 11 years. He said at that time the industry lacked a high quality pasta. He said that Montana has the highest quality of durum wheat in the states. He gave an overview of the facility, stating that Pasta Montana was purchased by Nippon Flour Mills, Japan's second largest flour miller approximately eight years ago. He said that Pasta Montana exports 40% of its pasta overseas. Mr. Gilbertson said he has a BS in Food Science from North Dakota (ND) State University, and said he was able to stay in ND to work for a small regional food manufacturer when he graduated from college. He said when he came to Montana about eight years ago he was surprised that Montana didn't have that many food companies.

Mr. Gilbertson talked about the opportunities he had in North Dakota and the availability of materials for value-added finished food product manufacturers like Pasta Montana. He said when he worked in Minnesota the vendors came to him, in Montana he has to find them. He stated that Montana is really lacking in resources for food processors. He said that "manufacturing breeds manufacturing, and industry breeds industry, bringing in the ability for other manufacturers, such as machine shops, and other small businesses that are needed to furnish supplies for a larger business to produce their product." He addressed the difficulties for start-up businesses in Montana, and one is the lack of resources.

00:42:44 REP. MENDENHALL introduced Sam Schmidt, Montana Milling, Inc., Conrad.

00:42:58 Sam Schmidt, Montana Milling, Inc., Conrad, distributed a hand out on his talking points. **EXHIBIT 4** He informed the committee that Montana Milling is a whole grain ingredient processor company serving the whole grain food industry. He gave an overview of the company located in Conrad. He said that the biggest growth in the last five years and potential growth in the next five years is dealing with organic grains. He said that supply in Montana is not keeping up with the industry. Organic is the fastest growing sector of food industry, and it has increased by 20% every year for the last 10 years. He said that Montana Milling is in a situation right now because they are relying on Canadian acres for their production. He gave statistics on the number of organic acres in production in Montana and the mid west. He said the growth industry in food sales is under 5%. He said their question is "how do you grow and produce more acres". He

said the biggest conflict at this time is the transition time for a conventional farm to go organic. The reason for this is the lack of research, information, and farming models for a conventional guide. There is more funding in place right now with the 2008 farm bill, but the industry feels it is only half of what is needed. He said currently there is no trial or research specific going on for Montana. He talked about a nine-year study in Maryland that shows organic soils retain two-times more water than conventional soils. He said a study in Pennsylvania shows there is better nutrition in the soil when they grow organic, and they have a better practice in the tilling process. He closed stating they are trying to find better ways to produce organics in Montana.

#### **QUESTIONS FROM COMMITTEE MEMBERS:**

00:47:23 REP. MENDENHALL opened up for questions from the Committee members.

00:47:43 Rep. Milburn asked Mr. Black about by-products, who do you sell it to, is there a market for it to be sold, and what is it. Mr. Black responded stating there are three platforms:

1. broken kernels and big kernels that are sorted and cleaned at the mills,
2. sprouts that are very high in fiber and used for cow/calf feed, and
3. dust (from the grain) is extracted from the water - made into pellets and used by feeders.

00:50:46 Rep. Milburn asked Mr. Black about the difficulty of getting rid of these products. Mr. Black said that sprouts, which are high in protein are very easy to get rid of. He said the dust is more difficult, because it doesn't have a market. He said there are not many uses for dust, and sometimes they have to take it to a landfill. Rep. Milburn asked when they are done malting where does the remainder go. Mr. Black said the remainder goes to various places such as, Anheuser Bush in Fort Collins, Jack Daniels in Tennessee, and to countries like Japan, the Dominican Republic, Mexico, Canada, etc.

00:52:48 Sen. Hansen asked David Tweet about his comment that only 25% of barley comes from Montana. He said as a producer it seems low, and he wanted to know: 1) where does the rest of the barley come from, 2) what percentage of malt barley is irrigated, and 3) what part is dry land. Mr. Tweet said they resource their malted barely mostly from North Dakota, South Dakota, Minnesota and eastern Montana. He said that most of North Dakota's barley is dry land. Mr. Tweet said statistics show that Montana has 130,000 irrigated acres of barley vs. seeded acres of 800,000. He said the company does focus more on the irrigated farmers because of the higher yield - 17% of malted barely comes from irrigated acres. Sen. Hansen asked if Anheuser Bush's future contracts that have been extended to the farmers are falling because grain prices went to \$10 per bushel and above. He also asked , and he asked is it tougher to get the farmers to grow malted barley. Mr. Tweet said he has been surprised at what commodity prices have done in the last four to five months. He said that Anheuser Bush hasn't been effected much with their program. He said their growers have been with them for a long time and being in the midst of a program now, they do not see a problem.

- 00:56:08 Sen. Hansen asked David Black about his plant's water rights with the city of Great Falls. Mr. Black said their water rights come from the Montana Department of Fish, Wildlife and Parks, and Giant Springs pipes water underneath the river to the plant.
- 00:58:04 Rep. Thomas suggested the committee members gather concrete information for the next legislative session. He asked the panel members if they would be interested in working with a subcommittee to come up with some legislation that would enhance or address some of the issues that have been presented here today. Mr. Black responded that is a good idea. Rep. Thomas talked about using more value-added manufacturing facilities in Montana and getting out to look at the triangle area to develop some legislation.
- 00:58:42 Rep. Reinhart asked about the Farm-to-College model. She wanted to know, 1) what are the opportunities to train employees, 2) what type of employees are needed, 3) where is the work force so Montana can train the workers and provide innovations for the future, and 4) where is the venture capital for the start-up to help expand small businesses. David Black responded stating it is difficult to find lab technicians for a corporate lab such as their facility in Great Falls. He said they are staffed six days a week, and work 12 hours a day in two shifts. He said that any malt that is produced in North American will go through their lab. He said it is very tough to find the type of people that have the skills for this type of lab work, e.g. analysis, and chemistry. He said there is a problem finding people that are coming out of college and willing to go into the agriculture side. He said it looks like a difficult business from the outside, but it is very rewarding and worth it for people to make a living. He said his company is willing to train and put people on the program. He said they have malting supervisors that have various degrees in science that do the training.
- 01:01:25 Randy Gilbertson responded to Rep. Reinhart's second question. He talked about the acquisition when his company took over a Costa Pasta company in Los Angeles, CA. He said their growth in the last three years has gone from 65 employees to over several hundred. He said it isn't much of a problem getting the workers to do the packaging, but it is difficult finding bio technicians. He said it is a problem with the lack of college degrees, and they do not know spread sheets and word processing programs. He said the people that do not have degrees cannot take a concept and present it to a group nor work with information that is electronic. He said a simple computer type program that is offered here at the college (Great Falls College of Technology) is useable. The resources for biological sciences is needed, e.g. what it takes to process durum grain and process it into pasta. He talked about a pilot processing plant where he works with people who come from all over the world to learn everything that is involved in the process from hands-on, safety issues, nutrition analysis, sensory, etc. He said to find resources such as these in Montana are not available.
- 01:05:09 Sen. Frank Smith talked about the Bismark State College in North Dakota that has an engineer program in processing grains, and asked if that is something the committee can look into for Montana.

Mr. Gilbertson addressed Sen. Smith's suggestion stating that a lot of the maintenance department employees at his plant are from Malmstrom Air Force Base. He said they get into the program and work their way up. He addressed the various departments and the level of pay.

- 01:07:01 David Tweet responded to the question. He talked about farming and how he is a product person. He said that marketing food isn't taught at our schools here in Montana. He talked about a marketing class at U of M that has hired his company to teach a class how to market food. Mr. Tweet discussed venture capital funds, and he urged the committee to figure out how to bring venture capital to Montana.
- 01:11:17 Mr. Tweet talked about the Mission Mountain Company in Ronan. He discussed the operation of the plant, and what it takes to run this operation on a commercial scale, e.g., the production and the processing of the products that go through the facility.
- 01:15:19 Rep. Milburn talked about working with the Great Falls Development Authority, who has also said that Montana has areas that need to expand, e.g., modernize facilities and equipment. He said in the same token there are programs out there that do not work and are not useful. He said we need to eliminate those programs and pull resources in from other areas for programs that do work.
- 01:17:49 REP. MENDENHALL asked how can we improve the business infrastructure here in Montana, and where are the shortcomings, e.g., work comp rates, work force training. He asked what can we do to overcome the impediments, such as transportation.
- 01:20:46 Randy Gilbertson responded to the first part of REP. MENDENHALL's questions by giving examples of the infrastructure at the facility on the border between North Dakota and Minnesota, and how the employees that work there are from both states. He said the facilities take advantage of tax incentives in order to make a go of it. He said he didn't know what it takes to improve business infrastructure. His company just had opportunities that they were able to take advantage of.
- 01:24:14 David Oien talked about transportation and how Timeless Seeds get their products from point A to point B when they ship overseas. He said their product is shipped by truck to Seattle than put into an overseas container for Europe. He said the trucks go 800 miles west and 800 miles back and keep going east and they don't stop in Montana. He said that Montana has to ship by truck, because the railroad will not drop cars off in Montana. He said there are trains that come out of Calgary and Regina, Canada, that come into Montana, load and go back out or put the shipment on a truck. He stated it is very frustrating that trains will not load here in Montana.

**PUBLIC COMMENT:**

- 01:28:06 Pat Murdo, Legislative Staffer, distributed a handout from Jessica Babcock,

Environmental Studies Program, U of M, who was not able to attend the meeting due to a ski accident. Ms. Babcock's article addresses the redeveloping of Montana's food processing industry. **EXHIBIT 5**

- 01:30:16 REP. MENDENHALL and Sam Schmidt, Montana Milling, Inc. talked about the research stations located throughout Montana regarding organic farming.
- 01:31:52 David Tweet talked about the history of alternative crops and production. He said there is a limited amount of research being done at MSU. He talked about Larry Miller out of Saskatchewan that MSU coordinates with on research. He informed the committee that Jon Tester, our Congressman from Montana, is an organic farmer.
- 01:34:38 Sen. Tropila talked about a "green lab" here in Montana. He informed the members that it is important to fund this program because of its valuable service to Montana. He said they will not be able to continue operating unless they receive more public funding.
- 01:35:46 Rhonda Husby, Manager of the Great Falls Job Service, talked about the infrastructure and challenges that we have here in Montana. She discussed the Economic Work Summit that took place here in Great Falls. She informed the committee that the workshop covers a lot more than just food such as, the lineman school at the College of Technology in Butte, and a pilot project going on in Billings, Columbus, and Red Lodge on incumbent worker training. She said this pilot project is for businesses with 20 or less employees. She talked about Tom Christie, regional director for the job service in Kalispell who was able to obtain \$250,000 from the Department of Labor to do a pilot project that will train 250 people by increasing their skills to work for various companies. She talked about the money also being used to train helicopter pilots. She said the opportunities are unlimited.
- 01:41:43 Randy Gilbertson was asked about his transportation situation. He stated that he ships two containers every week to Seattle. He said it is frustrating because it cost the same to ship from here to Seattle as it does from Seattle to Japan.
- 01:43:12 Mark Black said he sits on the Board of Transportation. He said they have consultants that are hired to find a critical mass to get Burlington Northern's attention to haul across the state.
- 01:44:14 SEN. HANSEN said he serves on the Rail Commission along with REP. MILBURN. He said the commission is working on finding containers to ship grain out of Montana.
- 01:45:34 BREAK
- 02:19:22 Ron Zellar, Montana Department of Agriculture, informed the group he is here today representing the department by observing. He said that Director DeYong is in Washington D.C., and he will take this information back to the Department of Agriculture in Helena.

- 02:25:03 REP. MENDENHALL asked "where do we go from here." He talked about the training and education needed to fill the positions required at the various facilities like Randy Gilbertson's or David Tweet and David Oien. He discussed with the committee about taking this information and developing legislation.
- 02:27:31 REP. MENDENHALL talked about research programs at Montana's Colleges of Technology, and getting legislation out to the public. SEN. HANSEN stated that the state agencies also need to assist in getting the information out to the public. REP. MENDENHALL talked about an extensive study done by the Economic Affairs interim committee several interims back on venture capital.
- 02:31:10 Andy Poole, Deputy Director, Department of Commerce, talked about the many programs for value-added agriculture that is embedded in a statute that sunsets in 2010. He listed the programs that are involved in the sunset, but he said he expects the upcoming legislature to extend the date for those programs. He talked about venture capital, and stated there is a speaker here today that will talk about a vehicle that will assist in bringing venture capital to Montana. He addressed the workforce training programs that are currently going on throughout the state.
- 02:43:2 Working lunch 12:00 p.m.
- 02:56:42 REP. MILBURN introduced Kim Thiel-Schaaf, Great Falls Development Authority. He explained that in work as a Board member of the Great Falls Development Authority that he has learned about how local development groups use various tools to recruit businesses into the area.
- 02:51:08 Kim Thiel-Schaaf, Great Falls, distributed a handout that summarizes the data for various industries throughout Montana. **EXHIBIT 6** She explained the grants that are available for training. She talked about a workforce training grant available through the federal government. The grant allows her to work with contracts and assist employees to receive better education and training.
- 03:08:14 Ms. Thiel-Schaaf discussed:
- Chinook Wireless - received funding to train employees.
  - Aeronautics - a regional aircraft company outside of the country shipping parts to our (Great Falls) airport to be painted.
- 03:11:39 REP. MILBURN asked Ms. Thiel-Schaaf about money needed to compete with other companies that are already in business. Andy Poole interjected that he is on a grand review committee that determines who receives the money. He talked about Montana businesses competing with worldwide companies. He said there is one exception and that is the health care industry, which is exempt.

**PUBLIC COMMENT:**

- 03:16:43 Andy Poole, Department of Commerce, distributed a summary of the workforce training program. **EXHIBIT 7** He talked about general funds that the department has been able to utilize for the training programs.

03:20:10 Mr. Poole distributed a handout that shows businesses that have received general funds for start-up and training. **EXHIBIT 8**

**QUESTIONS FROM COMMITTEE MEMBERS:**

03:24:25 SEN. HANSEN wanted to know how many companies have gone by the wayside after receiving this money.

03:26:57 Sen. Brown asked Andy Poole if a business down the street receives this grant does it take money away from another company. Mr. Poole said no. He explained that one of the criteria that is used determining if a business is eligible for an award is the absence of a competitor business within a certain geographic proximity. He gave PrintingForLess as an example who has created work for other companies. He stated they have not received any complaints.

03:38:39 Andrew Geiger, Legislative Staff, distributed a survey on HJR 48 that will be available to the public to determine how business infrastructure and development is perceived. Mr. Geiger explained that in a survey such as this it is important not to look for a mathematical outcome, but rather should the returns be plentiful it should allow for a broad picture of these conditions across the state. He explained that Montana is a difficult gauge given the size of the state and difference in economic conditions in different areas. **EXHIBIT 9**

03:42:35 Terry Schaeffer, Communication and website publisher with the State Chamber of Commerce addressed the survey that Mr. Geiger previously discussed. Mr. Schaeffer explained that the state chamber had a previous chance to review the survey and make comments and said they were pleased with the content of the survey and thanked the Committee for this opportunity.

03:43:27 REP. MENDENHALL asked Mr. Geiger to outline what he expects from the survey. Mr. Geiger replied that it is open for ideas. He said it doesn't include any white paper (bill). He talked about bringing in local chambers to assist with the survey.

**Review of Administrative Rules:**

03:45:18 REP. MENDENHALL informed the committee they are required to review certain rules. He introduced Bart Campbell, Legal Attorney, LSD.

03:45:59 Bart Campbell distributed a handout that addresses the current rules. **EXHIBIT 10** He informed the committee that it has been slow on administrative rules (ARM). He said the Department of Agriculture has new rules in place and talked about the cattle program examination.

Mr. Campbell talked about a new horse wagering rule that is proposed for adoption.

- 03:47:39 Mr. Campbell addressed the funeral director rules that have been adopted, and said he hasn't heard anything from the funeral directors. He said since the regular session he hasn't received any complaints.
- 03:51:57 REP. MENDENHALL talked about the limitation of laws and people feeling left out of the loop. He said if there is a concern about not getting information out to the members and to the public to feel free to contact the committee staff if they have any questions regarding the rules.
- 03:57:23 REP. MENDENHALL introduced Robert Pancich from the Montana Capital Investment Board who presented a report on constitutional issues of the State Fund. Mr. Fuchs informed the committee that the board is hiring a temporary full-time person that will handle reports and put together information for future board meetings.
- 04:01:28 Rep. Reinhart wanted to know on what grounds is a statute considered unconstitutional. Mr. Pool responded that it is his understanding that the tax credits being offered to raise money for State Fund capital is a concern that it may be unconstitutional because the state is guaranteeing funded debt. The tax credits are guarantees for raising money that would be invested in prime businesses in Montana, and the problem with that is causing a debt for the state. Mr. Poole gave a brief overview on tax credits, which are transferable. He talked about venture capital, and the threshold and rate of return for the investor.
- 04:07:58 REP. MENDENHALL asked Mr. Pool about the oversight mechanism. Mr. Pool responded that they have invited the Kaiser Company to invest in Montana. He said that Montana has to provide an incentive, and that is a tax break. He discussed a program similar to this that is being offered in Utah.

04:17:41 BREAK

#### **Workers' Compensation in Montana**

- an analysis of Workers' Compensation (WC) developments in state government,
- findings from the Labor-Management Advisory Council on Workers' Compensation, and
- as well as the administration of the Montana State Fund.

04:23:53 REP. MENDENHALL talked about the committee traveling around the state to allow the public to talk and hear about Workers' Compensation. He introduced the panelist:

- Jerry Keck, Administrator of the Employment Relations Division, Department of Labor and Industry (DLI),
- Connie Welsh, Administrator of the Health Care Division, Department of Administration (DOA), and
- Lawrence Hubbard, CEO and President, Montana State Fund (MSF)

04:24:39 Jerry Keck distributed a handout on the Labor-Management Advisory Council on

Workers' Compensation. **EXHIBIT 11** He directed the committee to turn to page 5, that show the other states that were used in comparison to Montana's rates.

- 04:50:09 Mr. Keck talked about the cost drivers - Medical Inflation on page 18.
- 04:58:00 Mr. Keck said when a WC patient is out for more than 12 weeks the chances are high that they will never go back to work. He said there needs to be a way to bring the employer and employee together to keep the injured worker at work.
- 05:00:00 Mr. Keck directed the committee to page 24 of his handout, and explained why Montana's premiums are higher than other states:
- more people Injured,
  - off work longer,
  - higher medical costs,
  - must collect higher premium per \$100 payroll to cover significantly, and
  - lower wage base that the premium is applied to.
- 05:04:05 REP. MENDENHALL introduced Connie Welsh and Lance Zanto from Department of Administration.
- 05:04:28 Connie Welsh, Health Care, opened by addressing Workers' Compensation (WC), and said that the state of Montana is the largest employer covered by this insurance. She gave a brief overview of her assigned duties. She said that DOA was asked to take over the task of managing WC costs and the workforce for the state of Montana Government Enterprise. She directed the committee to page 18 of EXHIBIT 11 from Jerry Keck regarding the medical costs from 1997 to 2007. She said in order to increase the efficiency and productivity in state agencies to receive funds from the legislature, her staff felt they needed to address management and WC on three levels: 1) administration efficiency, 2) prevention e.g., safety efforts and cultural change, and 3) claims. She said they cannot prevent injuries from happening, but they can work with State Fund to raise awareness. She talked about several resources her office has received from the 2007 Legislature like additional FTE.
- 05:09:12 Lance Zanto provided background information on his experience as an auditor with WC, and working with the nine surrounding states as the Vice-President of Mergenthaler Trucking. He said that when he began his job with the trucking operation the company had operated in nine state and had six WC claims. He walked the committee through what happens in a typical WC case. He said the person is at home often not knowing what all of the options are for them and that often times the employer does not have any contact with them. He said this is exactly the wrong approach. He said the first connection needs to be made from the employer to the individual to let them know they have a position for them and want them back as soon as possible. He said this reduces an economic worry for the individual and this mental relief helps people recover more quickly. He then stressed the need to get a person back to work as quickly as possible, even if it is not in the same job capacity, saying that being at home for a long period of time prolongs recovery time because people don't feel productive, family stress increases, and addictions develop or grow more pronounced. He gave examples

of settlements from \$5,000 to \$10,000 that are awarded to employees, and stated that employees need to know that WC isn't a pot of gold. He said in many cases these people lose their jobs and sometimes their homes waiting for WC settlements.

Mr. Zanto explained the state's efforts to reduce injuries and WC claims in state government. He said that the number of claims in state government is the same as the state's average, and that in some cases small private sector employers with dangerous professions do much better, including in such operations in mining. He said that the key here is to look at the state as one entity with regards to it being an employer, and that a person who is injured in one agency, but is qualified and able to start a job in another agency should be moved into that role. He cited the recent bus accident with the Department of Corrections as one example, and explained about how he went on-site at the accident and worked as a case manager to review each person's qualifications, talk to them and their doctors, and get them back to work in other state agencies.

05:24:38 Lawrence Hubbard distributed a power point presentation on the Montana State Fund (MSF). **EXHIBIT 12** He explained each slide addressing the structure of WC, its' policy, and why it was created. Mr. Hubbard explained that the MSF is but one provider of this type of insurance across the state, but that it is the insurer of last resort, and so even a company with a very poor track record for injuries must be insured under MSF, saying that although they have an operational structure of a private insurance company, they have oversight by the legislative branch through the legislative audit division. He explained MSF is currently undergoing a performance audit in addition to the normally scheduled financial compliance audit. He talked about several Montana Supreme court cases from the "Old Fund" that created a \$500 million unfunded liability.

#### **QUESTIONS FROM COMMITTEE MEMBERS:**

05:58:44 Rep. Milburn asked what the claim rates are for state employees compared to the private sector. Connie Welsh said of total accidents in the private sector they have a total between 180 and 200 hours of work time lost. She said that state employees aren't any better as far as lost time accidents or injuries.

06:00:10 Rep. Milburn asked if State Fund tracks the self-insured claim rates. Jerry Keck said yes they track by county and claim. Mr. Keck talked about OSHA data that is also used to monitor claims. There was discussion about claims filed in other states toward Montana, and how to determine when a claim is actually work related.

06:03:47 Sen. Brown and Jerry Keck discussed incentives for employees to return to work.

06:05:40 Sen. Brown asked Mr. Hubbard about the old fund and changes that the legislature made in 2003. Sen. Brown provided history regarding funds taken from the reserve account. He said that the legislature had taken \$23 million out of reserve funds and put into the State Fund. He said that the money wasn't put back in when requested in 2005, and wanted to know why. He also asked if that

money had been in the account would the state still have the pending court cases. Mr. Hubbard said yes there would still be a \$5 to \$7 million deficit. He talked about the continuing costs that do not go away for various reasons. Sen. Brown and Mr. Hubbard discussed the charts on page 15, EXHIBIT 11 on the liabilities and how the loss reserve fund had gained in FY 2006 & 2007. He wanted to know if that is due to the unanticipated medical costs. Mr. Hubbard said yes that approximately 80% is due to medical trends. Sen. Brown commented he has put in a bill draft request to have the funds put back in to the reserve account.

- 06:10:39 Rep. Thomas asked Mr. Keck how does he obtain his goals and deal with the legal environment. Mr. Keck said his office is preparing a proactive education sale's job on marketing jobs and how to return to work program. Rep. Thomas talked about the administrative costs for state fund is currently running about 26% to 27%. He said last year it was about 40% for private carriers. He talked about the negative aspect for the new State Fund building, but felt State Fund has justified it by reducing their administrative costs and use of better technology. He commented that in comparison with private insurance companies that State Fund is operating very well.
- 06:21:49 REP. MENDENHALL asked about the Satterlee case addressed in EXHIBIT 10, page 17. Mr. Hubbard replied we won in the lower case, but it is now back on appeal.
- 06:26:00 REP. MENDENHALL asked about the Board's decision on HB 738 from the NCCIA. Mr. Keck said on January 30, 2008 the Montana State Fund Board had a special meeting to consider the national council conservation of insurances on lost-cost funding. He said the Montana State Fund Board will implement the effect of the lost-cost changes in the rate making cycle that is for renewable businesses effective July 1, 2008. As part of that cycle the actuaries will consider the recommendations on the effect of the impact on rates since the effective date of those lost-costs between February through June. Mr. Keck said the actuaries have not presented them with a report at this time.
- 06:27:32 SEN. TRUDI SCHMIDT, chair of the Senate Finance Committee of the Montana State Legislature, Great Falls, addressed the State Fund issues that the Finance Committee have been dealing with. She talked about the Montana state agencies not being under one employer, and stated if they were, the rates would go down. She thanked the committee for their hard work on this issue.
- 06:29:58 Connie Welsh and Mr. Hubbard discussed the statute that places the DOA as the manager of the State Fund insurer for the state agencies. They also discussed how state agencies can have individual policies.
- 06:35:49 REP. MENDENHALL said that Mr. Geiger, Legislative Staffer will write a procedural letter to the State Veterans Affair Committee regarding the EAIC continuing to maintain a monitoring role of MSF given the statutory assignment of the two legislative liaisons from the EAIC in consistency with previous interims.

- 06:36:25 REP. MENDENHALL introduced and greeted Mary Moss, Dean of the College of Great Falls College of Technology. Ms. Moss thanked the committee for being here. She gave a brief overview of the college stating they are the fastest growing two-year college in the state. She urged the members to go on a tour and view the remodeling that is taking place.
- 06:37:36 Rep. Milburn introduced Amy Astin, Public Relations and Government Relations for the Great Falls Hospital.
- 06:38:05 REP. MENDENHALL thanked the committee and the panelist for the good discussion, and he thanked the College of Great Falls for being a gracious host.
- 06:45:118 REP. MENDENHALL adjourned the committee at 4:02 p.m.

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