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ECONOMIC AFFAIRS INTERIM COMMITTEE

67th Montana Legislature

SENATE MEMBERS

Jason Ellsworth
Nate McConnell
Frank Smith
Gordon Vance

HOUSE MEMBERS

Derek Harvey
Joshua Kassmier
Mark Noland
Vince Ricci
Sharon Stewart-Peregoy
Katie Sullivan

COMMITTEE STAFF

Patricia Murdo - Research Analyst
Jameson Walker - Attorney
Fong Hom - Secretary

MINUTES LOG

February 13, 2020
Room 137, State Capitol Building
Helena, Montana

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ROLL CALL

Members Present:

Rep. Vince Ricci, Vice Chair
Sen. Jason Ellsworth
Rep. Derek Harvey
Sen. Nate McConnell
Rep. Mark Noland
Sen. Frank Smith
Rep. Katie Sullivan
Sen. Gordon Vance

Members Excused:

Rep. Joshua Kassmier
Rep. Sharon Stewart-Peregoy

Staff Present:

Patricia Murdo, Research Analyst
Jameson Walker, Attorney
Fong Hom, Secretary

VISITORS' LIST (Attachment 1)
AGENDA (Attachment 2)

RECONVENE

- 08:00:00 Rep. Vince Ricci reconvened the meeting at 8:00 a.m. The committee secretary called roll.
- 08:01:00 Rep. Ricci gave an overview of today's meeting.

ASSIGNED STUDIES - SJR 18: STUDY OF LICENSING THOSE WITH CRIMINAL CONVICTIONS

Review of Current Status of Occupational Licensing Board of Applications

- 08:03:06 Todd Younkin, Administrator, Business Standards Division
- 08:05:26 Colleen White, Attorney, Business Standards Division ([Exhibit 1](#))

Public Comment

None.

How the Licensing Boards Vett Applicants

- 08:10:30 Colleen White

Committee Questions

- 08:15:57 Rep. Noland asked Ms. White which boards the division looks at when vetting license applications.
- 08:17:42 Rep. Noland asked about routine and nonroutine applications.
- 08:18:59 Sen. Ellsworth asked Mr. Younkin to read the first paragraph of the document, "Very Few Applicants are denied license because of criminal convictions."
- 08:20:39 Rep. Ricci asked if the process is working for the state.
- 08:22:56 Rep. Ricci asked Mr. Younkin what happens if the licensee re-offends.
- 08:24:02 Ms. White said that 37-1-105, MCA, requires each applicant for licensure or renewal to report any legal or disciplinary action against him or her.
- 08:24:31 Rep. Sullivan asked if data exists on the number of applicants who had a criminal history.
- 08:27:22 Sen. Smith asked if an applicant was denied a license, how long does that applicant have to protest the denial.
- 08:28:53 Pat Bollinger, former board member with the Board of Medical Examiners, commented on the vetting process.

Public Comment

- 08:31:43 Zeke Campfield, Welcome Back
- 08:33:40 Ms. Murdo referred the committee to public comment from Heather Lausch. ([Exhibit 2](#))

Review of Coping Mechanisms, Options to help offenders re-enter society

08:34:43 Gayle Butler, Administrator of Correctional Enterprises, Department of Corrections, gave an overview of the programs that are offered to inmates at the prison in Deer Lodge.

Public Comment

None.

Committee Questions of Ms. Butler

08:51:38 Rep. Noland asked about programs that would help people make good choices when reentering the workforce or society.

08:54:58 Rep. Sullivan asked if the programs are successful in helping those who are applying for licenses.

08:56:16 Rep. Ricci asked if her division tracks the progress of the inmates who participated in those programs.

08:57:48 Rep. Ricci asked Ms. Butler to comment on Mr. Campfield's testimony.

08:58:44 Sen. Ellsworth asked about the 28% recidivism for offenders that go through the program.

Overview of Past Related Legislation

09:01:00 Ms. Murdo presented an overview of past legislative options regarding job applicants ([Exhibit 3](#)). Ms. Murdo discussed the document "Selected Occupational/Professional Licensing Boards and Disposition of Applications of those with Criminal History" ([Exhibit 4](#)).

Committee Questions

09:12:49 Rep. Noland asked if a person is denied a license wrongfully and the board gets to decide if someone is not rehabilitated well enough, is the board the judge and jury?

Public Comment

None.

Committee Discussion

09:17:28 Sen. Ellsworth asked if professionals were prevented from getting a license back because the state retains minor traffic records.

09:17:53 Rep. Sullivan said she is interested in looking into making the licensure process more efficient and is also interested in the pre-evaluation program.

09:18:38 Rep. Ricci said that, after hearing from the panelists, it seems to him that everything is operating smoothly and that the Department of Corrections is working hard to help offenders seeking licenses. He said he is not sure that there would be any bills brought forward that would make things better.

- 09:19:31 Sen. Vance agreed with Rep. Ricci's assessment and said he is not interested in changing the current process.
- 09:20:24 Rep. Harvey discussed giving Ms. Butler the tools for her programs to ensure departing inmates can get licensed.
- 09:24:08 Rep. Ricci said that Ms. Murdo will draft a final report on SJ 18 and bring it to the next committee meeting for committee action.

BREAK

MEMBER ISSUES - BROADBAND

Review of Senate Bill 239 - Sen. Jason Ellsworth

Motion

- 09:38:20 Sen. Ellsworth moved that staff draft a bill exactly like SB 239 (2019) and include Rep. Harvey's amendment, "...any entity that claims a tax exemption under the subsection shall a) specifically record and map the locations of installed, in place fiber optical coaxial cable; and b) provide records and map locations to the Legislature in accordance with 5-11-210, MCA." The bill would be a committee bill.

Committee Discussion

- 09:38:30 Ms. Murdo asked about the title of the proposed bill.
- Sen. Ellsworth said the title of the proposed bill will be the same title as the originally drafted SB 239 but will include Rep. Harvey's amendment.
- Ms. Murdo said that the language in the bill says to provide tax incentives and that is the title that she is talking about.
- Mr. Walker read the title of SB 239 (2019).
- 09:39:00 Rep. Harvey asked Sen. Ellsworth about any concerns from the counties and localities.
- 09:39:20 Sen. Ellsworth said that a commitment was previously made to get all stakeholders and others together for their input when local government entities came and testified in front of the committee.

Public Comment

None.

Vote

- 09:42:48 The motion passed on a voice vote 8-2, with Rep. Sullivan voting no; Sen. McConnell and Rep. Kassmier voting aye by proxy, and Rep. Stewart Peregoy voting no by proxy.

ASSIGNED DUTIES - RULE REVIEW

Overview of current rules

- 09:43:29 Jameson Walker, Staff Attorney ([Exhibit 5](#))

Other committee business

- 09:45:52 Ms. Murdo reported on the the committee's request for information on the number of referrals to denturists made by the federal government, via the Indian Health Service and Veterans Administration. She also reported that Rep. Sullivan's request for information on other states who have laws regarding broadband is still in the research stage.
- 09:48:12 Ms. Murdo asked whether the committee would need to meet before the 14-day deadline of receiving a response from the Department of Labor and Industry on the objection made by the Economic Affairs Committee.
- 09:49:21 Mr. Walker said that the statute under MAPA provides that the committee issues the formal objection and provides a letter stating its reasons and sends the letter to the department and the department has 14 days from the mailing of that to respond.
- 09:51:08 Rep. Ricci asked about the letter from the committee to the U.S. Department of Agriculture.
- 09:52:53 Ms. Murdo explained that the letter is about supporting broadband expansion for the purposes of the U.S. Department of Agriculture grants for rural broadband initiatives. **(Exhibit 6)**

Motion

- 09:53:55 Sen. Vance moved to approve and send a letter from the committee to the U.S. Department of Agriculture in support of Montana grants intended to expand broadband in rural areas.

Vote

- 09:54:19 The motion passed unanimously on a voice vote with all proxies voting yes.

Further committee business

- 09:55:45 Ms. Murdo discussed the topics for the next meeting.
- 09:57:21 Sen. Vance gave an update on the Lab Study at the Department of Livestock Veterinary Diagnostics Laboratory at Montana State University.
- 09:58:40 Ms. Murdo gave an update of the activities of the Board of Horseracing.
- 10:00:19 Ms. Murdo discussed starting times for future meeting dates.

Information about Prosthetics Rule - Department of Labor and Industry

- 10:03:21 Eric Strauss, Employment Relations Division, Department of Labor and Industry **(Exhibit 7)**
- 10:07:37 Dr. Maggie Cook-Shimanek, Medical Director, Employment Relations, supported the proposed change to administrative rule 24.29.1407.
- 10:13:14 Judy Bovington, Legal Counsel, Department of Labor and Industry, said that the compromised language was not agreed upon by all the stakeholders but is compromised language with the insurers only.

Public Comment on the rule change

- 10:14:20 Kevin Braun, Montana State Fund
- 10:15:31 Bridger Mahlum, Montana Chamber of Commerce
- 10:16:12 Kevin Bartsch, Montana School Boards Association Interlocal Authority

BREAK (reconvened at 10:30 a.m.)

Sen. Nate McConnell joined the meeting.

Committee Questions

- 10:31:02 Sen. Ellsworth asked Ms. Bovington if the proposed language will be used by the department.
- 10:33:03 Sen. McConnell asked Ms. Bovington to comment on what the impact would be by striking paragraph 3(3) and moving the language to paragraph 1(b).
- 10:35:48 Sen. McConnell discussed the Mellinger decision on which the stakeholders are basing their position and asked if this issue will be litigated if the rule passes.
- 10:37:07 Rep. Harvey asked Mr. Braun if a worker has a procedure done, and he is able to work another 20 years, would he be covered under workers' compensation if the procedure fails after he retires in 10 years or would that case have to be reopened?
- 10:39:30 Sen. Ellsworth commented on his disappointment working with the Department of Labor and Industry on this issue.
- Mr. Walker said that if the committee takes no action on that motion, the formal objection stands and there is no need to renew that objection.

MEMBER ISSUES - PRESUMPTIVE DISEASE/WORK COMP PREMIUMS

Overview of Presumptive Disease Concerns

- 10:43:50 Kevin Braun, Legal Counsel, Montana State Fund
- 10:47:18 Alan Hulse, Montana Municipal Interlocal Authority (MMIA)

Committee Questions

- 10:55:43 Sen. McConnell asked Mr. Braun what data the State Fund would use in its determination on what rate to charge. He also asked if the actuaries will be assessing information from Montana only or from other states as well.
- 10:57:05 Rep. Harvey asked Mr. Hulse about MMIA raising the rates on a specific firefighter class code based on numerous claims.
- 10:58:34 Rep. Ricci asked Mr. Hulse if the number of calls the volunteer firefighters respond to in a year is taken into consideration.
- 11:00:49 Sen. McConnell asked Mr. Hulse a series of questions, including whether the actuaries use data from other states in presenting these rates, why rates increased from \$3.89 to \$6.49 when there was a 5-year time period for MMIA to build up the reserves, and the impact of firefighter cancer

claims which, prior to the passage of the Firefighter Protection Act, could be tied to firefighting activities. Sen. McConnell also asked if Mr. Hulse would share with the committee the actuarial ranges and why MMIA chose the actuarial range that it did.

11:08:44 Rep. Harvey asked Mr. Hulse about reserves and MMIA using the parameters that were in the bill to get a more accurate base number on who could actually qualify to be covered.

Public Comment on presumptive disease concerns

11:11:53 Joel Gaertig, Montana State Firemen's Association

Committee Questions

11:12:52 Sen. McConnell said that the city of Missoula had received a bill in the amount of \$250,000 for insurance coverage for presumptive diseases. He asked Mr. Gaertig to explain why those rates have increased.

11:15:16 Sen. Ellsworth asked for more information on rates decreasing vs rates increasing and suggested that State Fund report back to the committee.

11:17:36 Sen. McConnell commented that he is still not satisfied as to why rates went up. He said that the people of Montana deserve an answer as to why rates increased.

11:21:51 Rep. Harvey is disappointed that the insurers aren't putting out fact sheets on the overall health of firefighters improving.

11:23:33 Sen. McConnell requested that Montana State Fund and MMIA provide information explaining their rates, explain how they arrived at those decisions, and provide actuarial numbers at the next Economic Affairs meeting.

Committee Discussion and Direction to Staff

11:24:57 Mr. Walker pointed out that he had distributed the committee's formal objection under 24.29.352, to the Department of Labor and Industry and requested that the Department's response to the letter be put on the agenda for the next meeting. **(Exhibit 8)**

11:25:54 Sen. Vance asked Ms. Murdo about the agenda topics and the start time for the next meeting.

Rep. Ricci suggested a starting time of 9:00 a.m.

11:26:53 Sen. Smith said he would like to know more about record retention regarding offenses committed by juveniles.

ADJOURNMENT

11:28:15 Rep. Ricci adjourned the meeting at 11:28 a.m.