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**ECONOMIC AFFAIRS INTERIM COMMITTEE**  
**67th Montana Legislature**

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**SENATE MEMBERS**

Jason Ellsworth  
Nate McConnell  
Frank Smith  
Gordon Vance

**HOUSE MEMBERS**

Sharon Stewart Peregoy (Chair)  
Derek Harvey  
Joshua Kassmier  
Mark Noland  
Vince Ricci (Vice Chair)  
Katie Sullivan

**COMMITTEE STAFF**

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

**MINUTES LOG**  
**HYBRID IN PERSON AND ZOOM CONFERENCING**

June 30, 2020  
Room 152, Capitol Building  
Helena, Montana

Please note: This document is a Minutes Log and provides annotation of the time elapsed between the beginning of the meeting and the time at which the item was presented or discussed, a motion was made, or a vote was taken. The narrative presented here is provided only as a guide to the audio or video recording of the meeting. The official discussion, motion, or vote is available on the audio or video archive of this meeting. The Legislature does not prepare a transcript of the meeting activities. The 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://legmt.gov>. From the home page, select the "Committees" drop down menu at the top, then select Administrative or Interim, and the appropriate committee. The written minutes log can be located by expanding the accordion menu for the date of the meeting. Links to the audio/video files can be located by selecting the Video/Audio button on the same page, then the "past/current recordings" button. From there, use the calendar to select the date of the meeting you wish to view/listen to. The written Minutes Log, along with links to the audio and video recordings, is listed by meeting date on the interim committee's web page. Each of the Exhibits is linked and can be viewed by clicking on the Exhibit of interest. All Exhibits are public information and may be printed. Please contact the Legislative Services Division at 406-444-3064 for more information.

**ROLL CALL**

**Members Present:**

Rep. Sharon Stewart Peregoy, Chair  
Rep. Vince Ricci, Vice Chair  
Sen. Jason Ellsworth  
Rep. Derek Harvey  
Rep. Joshua Kassmier  
Rep. Mark Noland  
Sen. Frank Smith  
Rep. Katie Sullivan  
Sen. Gordon Vance

**Members Excused:**

Sen. Nate McConnell

**Staff Present:**

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

**AGENDA (Attachment 1)**  
**VISITOR'S LIST (Attachment 2)**

**COMMITTEE ACTION**

The Economic Affairs Interim Committee at its June 30-July 1 meeting took the following actions:

- Approved a bill draft based on SB 239 (2019) providing incentives for broadband or coaxial cable expansion;
- Requested that the Governor direct more federal COVID-19 funding to support broadband expansion in Montana;
- Formally objected to a proposed rule on vaping;
- Requested more information on a proposed rule on dry needling by chiropractors and continued a delay of rule adoption;
- Continued an informal objection on a securities/insurance proposed rule until the next EAIC meeting;
- Asked for collaboration between dentists and dental hygienists to determine sites for hygienists' limited access permits;
- Heard from tourism and economic analysts about the impacts in Montana from shelter-at-home directives and from state officials regarding state grants intended to counteract pandemic costs;
- Requested a letter be sent to the Governor urging waivers from liability or some form of protection as businesses operate in the pandemic; and
- Requested placeholder bills:
  - one related to allowing immediate family members to own licenses in more than one alcohol tier; and
  - another to allow a form of historical horseracing gaming, contingent on stakeholders (including the video gaming industry) working out details.
- Voted unanimously to have a preliminary draft implementing some of the Legislative Audit suggestions related to the lodging facility use tax and the accommodations tax.

**CALL TO ORDER/ROLL CALL**

- 09:06:00 Rep. Sharon Stewart Peregoy called the meeting to order at 9:06 a.m. The secretary called roll. Sen. Nate McConnell was excused and gave his proxy to Rep. Katie Sullivan.
- 09:07:47 Ms. Murdo made reference to several documents but did not discuss them: Montana Coronavirus Relief Fund Programs (**Exhibit 1**), the Montana Agricultural Adaptability Program Reward Map (**Exhibit 2**), the Montana Feed Processing Grants Map (**Exhibit 3**), and an update of the State's Covid-19 Grants (**Exhibit 4**).

**EMERGING ISSUES: REVIEW OF SELECTED COVID-19 IMPACTS ON MONTANA**  
**Update on Applications/Distribution of Grants under COVID-19 State Assistance**

- 09:11:18 Amy Sassano, Deputy Budget Director, Office of Budget and Program Planning (**See Exhibit 1**)

### **Committee Questions**

- 09:34:11 Sen. Ellsworth asked about business stabilization grants and if any business that had received federal PPP (Paycheck Protection Program) money can apply for that. He also asked about local government reimbursements.
- 09:38:02 Rep. Noland asked if the relief money is general fund money or is it money from the federal government.
- 09:44:48 Rep. Stewart Peregoy asked about the deadline for spending grant funds and whether there are recurring expenditures.
- 09:45:50 Rep. Stewart Peregoy asked about a contingency plan to provide relief for businesses should the state go back to shelter in place sometime between now and December.

### **Update from the Department of Agriculture on agricultural grants**

- 09:47:43 Ben Thomas, Director, Department of Agriculture, gave a presentation on the Montana Agriculture Adaptability Program ([Exhibit 2](#)) and the Montana Meat Processing Grants ([Exhibit 3](#)).

### **Committee Questions of Mr. Thomas**

- 09:56:09 Rep. Ricci asked about tracking meat processing production prior to COVID-19.
- 09:57:02 Sen. Ellsworth asked for clarification of numbers that he saw in a document, "...allocated \$2 million and remainder, \$15 million requested." He also asked Mr. Thomas to provide the correct numbers and the actual fulfillment of the grants.

### **Update from the Department of Livestock on food production chain**

- 10:01:23 Mike Honeycutt, Executive Officer, Board of Livestock

### **Committee Questions of Mr. Honeycutt**

- 10:14:55 Sen. Vance asked Mr. Honeycutt to update the committee on the progress of the Board of Livestock moving forward on its own to address the needs of the diagnostic lab.
- 10:19:43 Rep. Noland asked about the number of meat processing plants that are in the state and for Mr. Honeycutt to explain the difference between processing plants and slaughter houses.
- 10:23:42 Rep. Ricci asked if the inspectors have been able to keep up with inspections due to an increase in production.

### **Other Economic Impacts of COVID-19**

#### **Tourism**

- 10:25:45 Norma Nickerson, Institute for Tourism and Recreation Research ([Exhibit 5](#))

**Committee Questions**

10:35:23 Rep. Ricci asked Ms. Nickerson where she gets her data from.

**Employment**

10:36:39 Scott Eychner, Administrator, Workforce Services, Department of Labor and Industry ([Exhibit 6](#))

**Committee Questions**

10:45:27 Rep. Noland asked how the state could incentivize people receiving unemployment benefits to return to the workforce.

10:50:10 Rep. Sullivan asked about certification training online.

10:51:49 Rep. Ricci asked if there was any effort on the part of the Department of Labor and Industry to transition some of the tourism and hospitality people to different job opportunities.

**Montana's Economy**

10:53:47 Patrick Barkey, Director, Bureau of Business and Economic Research, University of Montana ([Exhibit 7](#))

**BREAK** (reconvened at 11:30 a.m.)

**Insurance**

11:21:48 Bob Biskupiak, Deputy Insurance Commissioner, State Auditor's Office

**Hospitality Industry**

11:30:50 Steve Wahrlich, Chair of the Montana Lodging and Hospitality Association

**Actions by Other States on Business Liability Options**

11:43:22 Jameson Walker, Staff Attorney ([Exhibit 8](#))

**Committee Questions of Mr. Walker**

12:00:49 Rep. Noland asked about other states having business liability waivers. He also asked if those waivers could be provided by the governor or would the waivers have to be done legislatively.

Rep. Stewart Peregoy asked Mr. Walker to give the committee members a copy of his presentation so that the members could review it before tomorrow's meeting.

12:07:21 Rep. Stewart Peregoy said that she has heard of concerns about gross negligence and noncompliance with public health orders. She asked if businesses are in compliance with the county health orders.

Rep. Stewart Peregoy asked if existing law provides enough protection.

- 12:08:48 Ms. Murdo noted that in the Workers' Compensation statutes an employer cannot ask an employee to sign a waiver of the Workers Compensation Act.
- 12:09:13 Sen. Smith asked Mr. Walker if related existing laws had ever been challenged.

**ASSIGNED STUDIES: SJ 24 - LODGING FACILITY USE TAX**  
**Recommendations from Tourism/Hospitality Industry**

- 12:12:25 Steve Wahrlich, Montana Lodging and Hospitality Association
- 12:24:36 Rep. Stewart Peregoy requested a copy of Mr. Wahrlich's presentation.
- 12:28:24 Jennifer Pelej, Division Administrator of the Montana Office of Tourism and Business Development, Department of Commerce

**Committee Questions**

- 12:32:17 Rep. Sullivan asked Mr. Wahrlich about the collection of lodging taxes from AirBnBs and VRBOs in the state. She asked if the state is receiving all the funds based on the collection of taxes. Rep. Sullivan requested information from the Department of Revenue regarding collection of lodging taxes from AirBnBs in Montana.
- 12:35:48 Sen. Ellsworth discussed an audit provision in the contract with AirBnBs. He suggested referring questions about the contract to the Audit Committee.

**Motion/Vote**

- 12:36:35 Rep. Sullivan moved that the Audit Committee provide more information regarding revenues from AirBnBs and VRBOs and if they are in compliance with current law.
- 12:37:03 The motion passed unanimously on a voice vote with Sen. McConnell voting yes by proxy.

**BREAK**

**Review Draft of Final Report and Recommendation Options**

- 12:58:03 Ms. Murdo discussed moving the presentation on the final report to tomorrow's meeting.

**Public Comment on Economic Impacts of COVID-19 and the SJ 24 Study**

- 13:00:37 Recene Friede, CEO, Glacier Country Regional Tourism Commission
- 13:03:39 Bridger Mahlum, Montana Chamber of Commerce

**GENERAL PUBLIC COMMENT**

None.

**ASSIGNED STUDIES: SJ 18 - LICENSING OF THOSE WITH CRIMINAL CONVICTIONS**  
**Review of Draft Final Report and Proposed Recommendations/Findings**

13:12:50 Ms. Murdo gave a presentation on the SJ 18 draft final report ([Exhibit 9](#)). Ms. Murdo referred to the Department of Labor & Industry's supplemental report to the Business Standards Division's January 30, 2020 memo. ([Exhibit 10](#))

**Committee Questions**

13:28:54 Sen. Ellsworth suggested surveying committee members on study recommendations to deal with on a scoring system.

13:29:38 Rep. Sullivan said she is interested in the pre-review aspect to make sure the trade education can be approved.

13:31:44 Rep. Ricci asked Mr. Younkin about the overview that says Montana denials over the past 5 years have been less than 1% and whether, in the event of a denial, there is an appeal process.

**Public Comment on SJ 18**

13:34:40 Pat Webb, Americans for Prosperity Montana

13:36:47 Todd Younkin, Department of Labor and Industry

**Committee Questions of Mr. Younkin**

13:39:08 Sen. Ellsworth asked for clarification of the statement, "any convictions after 5 years" and whether that would be a hard-and-fast rule regardless of the crime or type of license applied for.

**REQUIRED REPORTS**

**Report by Reinsurance Advisory Commission**

13:41:30 Matt Rosendale, State Auditor ([Exhibit 11](#))

13:45:48 Cody Langbehn, Vice President Regional Director, Montana PacificSource Health Plan, member of the Montana Reinsurance Advisory Commission.

13:52:00 Janell Depner, staff attorney, Office of the Commissioner of Securities and Insurance

**Public Comment**

None.

**Committee Questions**

13:58:48 Sen. Ellsworth thanked Commissioner Rosendale for bringing forth the bill and for his work on this issue.

**MEMBER ISSUES: BROADBAND**

14:00:28 Ms. Murdo gave a presentation on Broadband Coverage ([Exhibit 12](#)) and Broadband Options ([Exhibit 13](#)).

### **Committee Discussion**

- Ms. Murdo asked if the committee would like a report on the Broadband or if Sen. Ellsworth's bill is sufficient for an outcome.
- 14:06:14 Rep. Harvey said he would like to have a report.
- 14:06:48 Rep. Sullivan agreed with Rep. Harvey.
- 14:07:22 Rep. Stewart Peregoy asked for more information on the infrastructure question for Broadband. She also asked about the recent grants to help rural Montana get access to the internet and asked if anyone has applied for the grants.
- 14:12:03 Rep. Harvey said that it is his understanding that some of the COVID-19 relief money could be earmarked for improving access to the internet. He discussed sending a letter to the governor encouraging the governor to use some of that money to invest in Broadband.
- 14:13:14 Rep. Sullivan said that the state of Idaho created a Broadband grant program from the COVID-19 money.
- 14:14:24 Sen. Ellsworth said that time is of the essence because the COVID-19 funds are available just until the end of the year.
- 14:15:02 Rep. Stewart Peregoy asked that staff draft a letter for review and discussion at tomorrow's meeting.

### **Public Comment on Broadband**

- 14:16:21 Jennie Stapp, State Librarian
- 14:24:05 Geoff Feiss, Montana Telecommunications Association

### **Review of Proposed Committee Bills: Option 03 and Option 05**

- 14:29:48 Jameson Walker, legal staff, gave a presentation on PD0003 ([Exhibit 14](#)) and PD0005 ([Exhibit 15](#)), explaining that the reporting requirements differed.

### **Committee Questions and Discussion**

- 14:34:51 Rep. Harvey said that after conversations with Mr. Feiss, his concern about an audit was cleared up. He wanted to make sure that there is new language regarding an audit function to the Department of Revenue in PD0005.

### **Motion**

- 14:35:29 Sen. Ellsworth moved that PD0005, as amended, move forward as a committee bill.

### **Public Comment**

- 14:36:58 Geoff Feiss, Montana Telecommunications Association

## **Vote**

14:37:30 The motion passed unanimously on a voice vote, with Sen. McConnell voting aye by proxy. Sen. Ellsworth will be the sponsor.

**BREAK** (reconvened at 2:50 p.m.)

## **AGENCY MONITORING: MONTANA STATE FUND 2020 Premium Setting/Adoption of 2020 Budget/COVID-19 Update**

14:59:00 Laurence Hubbard, President and CEO, Montana State Fund

15:00:40 Mark Burzynski, Montana State Fund Vice President, Corporate Support, gave a presentation on the Montana State Fund Board Approved Budget (**Exhibit 16**) and the Montana State Fund 2020 Annual Budget (**Exhibit 17**).

## **Public Comment**

None.

## **Overview of Other Agency Activities**

15:19:13 Ms. Murdo (**Exhibit 18**)

15:20:19 Cheryl Cohen, Montana Board of Housing, gave a presentation on the Board of Housing (**Exhibit 19**)

## **Committee Questions of Ms. Cohen**

15:22:07 Rep. Stewart Peregoy asked about the Emergency Housing Assistance Program. She also asked about the 328 applications that were declined.

15:24:22 Rep. Stewart Peregoy noted the concern in other parts of the nation about possible spread of the coronavirus among the homeless population and how to protect and provide shelter through the CARES Act. She asked what is being done in Montana.

15:26:51 Rep. Noland asked if the state is seeing a big increase in a need for rentals for lower income people.

15:31:23 Ms. Murdo asked Ms. Cohen to provide clarifications on Section 8 housing and regular and multi-family loans, some of which was difficult to hear.

## **RULE REVIEW**

### **Rule Review for May and June**

15:33:45 Jameson Walker, staff attorney (**Exhibit 20**)

15:36:08 *Sen. Vance left the meeting.*

15:37:16 Dr. Vince Maddio, Chair, Board of Chiropractors, discussed the proposed rule for dry needling

## **Public Comment**

15:39:18 Greg Dorrington, Montana Medical Association



15:44:14 Tanya Brekke, Licensed Acupuncturist  
15:45:40 Marcus Nymas, Licensed Chiropractor

### **Committee Questions**

15:48:07 Rep. Noland asked Ms. Brekke about the number of training hours for dry needling.

15:50:17 Rep. Ricci asked Dr. Maddio to comment on Ms. Brekke's statement that chiropractors only receive 18 hours of training.

15:52:01 Sen. Smith asked about recertification training as a chiropractor, the requirements for recertification, and how often chiropractors have to recertify.

15:53:19 Sen. Ellsworth asked Dr. Maddio to explain the 18-hour course.

15:55:51 Rep. Sullivan asked Dr. Maddio about educational requirements for dry needling.

15:58:28 Rep. Noland commented on concerns over proper training for dry needling procedures.

16:01:07 Rep. Harvey asked if a chiropractor chooses to take this course but feels uncomfortable with the procedure, can the chiropractor choose to not do the procedure but pass that to another professional.

16:02:14 Rep. Harvey asked Mr. Nymas if a chiropractor's license would be in jeopardy if the chiropractor wasn't comfortable with the dry needling procedure and caused harm to a patient during a dry needling procedure.

16:03:24 Rep. Stewart Peregoy discussed the committee's objection to the rule on dry needling.

16:04:31 Mr. Walker discussed the objection and cited 2-4-305(9), MCA.

16:06:01 Rep. Stewart Peregoy asked Mr. Walker about expanding the scope of practice that is not clear in law.

16:08:28 Rep. Stewart Peregoy commented on concerns about public safety, the two-day training, no certification on a dry needling procedure, and that not all chiropractic colleges offer dry needling or acupuncture.

### **Motion/Vote**

16:10:41 Rep. Sullivan moved to renew the objection until the next Economic Affairs meeting with the hope of gathering information regarding whether or not it is an overreach by the board.

16:12:07 The motion passed 9-1, with Rep. Harvey voting no, and Sen. McConnell and Sen. Vance voting aye by proxy.

16:14:05 Rep. Ricci requested including in the letter that the chiropractors need to step up and give reassurance that they can do what they say they can.

## **GENERAL PUBLIC COMMENT**

16:14:58 Tom Melton, Attorney, State Auditor's Office, discussed the State Auditor's Office's proposed change to the rule regarding investment advisors and insurers. [\(Exhibit 21\)](#)

## **Committee Questions**

16:20:33 Sen. Ellsworth asked Mr. Melton if this has been an issue with the State Auditor's Office and why this has come up.

16:22:37 Rep. Stewart Peregoy asked if the State Auditor's proposal is to amend existing statute by Administrative Rule.

16:26:17 Jameson Walker, Committee Attorney, responded.

16:27:36 Rep. Stewart Peregoy said that in the past, it was up to the Legislature to amend the laws. Rep. Stewart Peregoy said that she wanted to make sure that the committee is not allowing Administrative Rule to define something.

16:28:54 Sen. Ellsworth asked Mr. Melton about bringing this proposal as a cleanup bill in the next session.

16:33:12 Rep. Stewart Peregoy commented on erring on the side of caution. She asked for a motion to do a formal objection and asked Mr. Walker to review the law further.

16:35:08 Sen. Smith asked Mr. Melton whether an investment advisor is registered in another state, can they sell in Montana.

## **Motion/Vote**

16:36:31 Rep. Ricci moved that the Economic Affairs Interim Committee draft an informal objection to the State Auditor rule on the investment advisor-insurer rule.

16:37:00 The motion passed unanimously on a voice vote, with Sen. Vance and Sen. McConnell voting aye by proxy.

## **Public Comment**

16:37:48 Bill Warden, National Association of Insurance and Investment Advisors

## **Discussion of Active Supervision in relation to Dental Hygienists/Board of Dentistry rules**

16:40:21 Judy Bovington, Legal Counsel, Department of Labor and Industry, gave background information on the Active Supervision process. She discussed active supervision in relation to the Dental Board and the limited access permit (LAP) hygienists.

## **Public Comment**

16:46:08 Al Garver, Executive Director, Montana Dental Association [\(Exhibit 22\)](#)

16:52:30 Jane Gillette, DDS, Montana Dental Association [\(Exhibit 23\)](#)

17:01:53 Clancy Casey, Immediate Past President, Montana Dental Hygienist Association

- 17:05:53 Patty Conroy, Registered Dental Hygienist, Montana Dental Hygienist Association, Limited Access Permit holder
- 17:10:27 Brad Longcake, Montana Dental Hygienist Association

### **Committee Questions/Discussion**

- 17:15:48 Rep. Noland said he doesn't support allowing LAPs in the schools.
- 17:16:54 Sen. Ellsworth asked Ms. Bovington if working the issue out is an option for the Department of Labor and Industry.
- 17:17:21 Ms. Bovington said that the Department of Labor and Industry disagrees with the Dental Association and referenced options available under 37-4-405, MCA, under which schools have been recognized as places where limited access permits can be used.
- 17:21:06 Sen. Ellsworth asked Dr. Gillette if she sees an opportunity where stakeholders can get together and try to come up with a resolution.
- 17:21:44 Rep. Stewart Peregoy asked Mr. Walker about this being an overreach.
- 17:22:06 Rep. Sullivan asked Ms. Bovington if the Board has had any discussions on this issue and if not, why, and whether the discussion is too early since there is no rule yet.
- 17:24:18 Mr. Walker noted that the Montana Administrative Procedures Act contemplates a rule for the committee to review and noted that no rule is available yet.
- 17:24:59 Rep. Ricci said that since both sides in this are citing legislative intent, he thinks that the dental hygienists should bring a bill and clear this up.
- 17:25:10 Rep. Stewart Peregoy said that at this time the committee does not have to make a decision on this issue.

### **Discussion on the Vaping Rule**

- 17:26:42 Ms. Murdo provided background information on the Children, Families, Health and Human Services Committee's decision not to act on the vaping rule and said that Sen. Ellsworth had requested that the rule be on the agenda.

### **Public Comment on Vaping**

- 17:29:02 Keith Bowman, E-cig Vapor Juice, Missoula
- 17:32:31 Deanne Marshall, Montana Smoke Free Association
- 17:35:24 Patrick Webb, Americans for Prosperity Montana
- 17:39:30 Lauren Wilson, Pediatrician, Secretary of the Montana Chapter of the American Academy Pediatrics
- 17:41:52 Amanda Cahill, Director, Government Relations for the American Heart Association and American Stroke Association Montana
- 17:45:21 Kathy Rogers, MD, Pediatrician, Missoula

- 17:49:04 Annie Tegen, Western Region Director for Campaign for Tobacco-Free Kids
- 17:52:14 Carrie Nyssen, Vice President of Advocacy & Air Quality, American Lung Association of the Mountain Pacific
- 17:55:40 Ron Marshall, Vice President, Montana Smoke Free Association, and co-owner of Freedom Vapes
- 18:01:12 Rep. Stewart Peregoy, Ms. Murdo, and Sen. Ellsworth had a discussion over the status of the public comment stage for the rule on flavored vaping products.

### **Motion**

- 18:02:46 Sen. Ellsworth moved to formally object to MAR Notice No. 37-923 proposed by the Department of Public Health and Human Services.

### **Discussion on Motion**

- 18:05:39 Sen. Smith supported Sen. Ellsworth's objection to the rule.
- 18:07:20 Rep. Sullivan said she is hesitant to act on this and she will vote against the motion.
- 18:08:07 Mr. Walker said that in a discussion with the Code Commissioner he learned that one consideration is that the motion could be ruled out of order. He said the motion is for a committee objection under 2-4-406, MCA.
- 18:13:03 Sen. Ellsworth said that that statute does not prohibit another interim committee from formally objecting.

### **Vote**

- 18:13:38 The motion passed on a roll call vote, 7-3, with Senators Smith and Ellsworth, and Representatives Kassmier, Noland, Ricci, and Stewart Peregoy voting yes, and Sen. Vance voting yes by proxy. Rep. Sullivan voted no, and Sen. McConnell and Rep. Harvey voted no by proxy.
- 18:16:36 Ms. Murdo discussed sending a letter to the Department stating the objection is under the formal objection part of MAPA.

### **Direction to Staff**

- 18:17:07 Ms. Murdo discussed agenda items for tomorrow's meeting.

### **RECESS**

- 18:18:11 Rep. Stewart Peregoy recessed the meeting at 6:18 p.m.