



Economic Affairs Interim Committee

66th Montana Legislature

SENATE MEMBERS

JASON ELLSWORTH
NATE MCCONNELL
FRANK SMITH
GORDON (GORDY) VANCE

HOUSE MEMBERS

DEREK HARVEY
JOSH KASSMIER
MARK NOLAND
VINCE RICCI
SHARON STEWART PEREGOY
KATIE SULLIVAN

COMMITTEE STAFF

PATRICIA MURDO, Research Analyst
JAMESON WALKER, Staff Attorney
FONG HOM, Secretary

MINUTES LOG

September 11, 2019
Room 137, Capitol Building
Helena, Montana

Please note: This document is a Minutes Log and provides a notation 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 record 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 meeting activities. The time designation may be used to locate the referenced discussion on the audio or video recording of this meeting.

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COMMITTEE MEMBERS PRESENT

SEN. NATE MCCONNELL (*by phone*)
SEN. FRANK SMITH
SEN. GORDON (GORDY) VANCE

REP. SHARON STEWART PEREGOY (*by phone*)
REP. DEREK HARVEY
REP. JOSH KASSMIER
REP. MARK NOLAND
REP. VINCE RICCI
REP. KATIE SULLIVAN

COMMITTEE MEMBERS EXCUSED

SEN. JASON ELLSWORTH

STAFF PRESENT

PATRICIA MURDO, Research Analyst
JAMESON WALKER, Staff Attorney
FONG HOM, Secretary

VISITORS' LIST([Attachment 1](#))

AGENDA([Attachment 2](#))

COMMITTEE ACTIONS

Here is a summary of what the Economic Affairs Interim Committee decided at its September 11 meeting:

- Voted to object to the Board of Dentistry proposed rule II, issued September 6, regarding denturists, under 2-4-305(9), which basically pauses any action by the Board of Dentistry to adopt the rules pending an explanation to the EAIC at its next meeting (November 7). The vote resulted in a **letter** sent to the Commissioner of Labor and Industry.
- Voted to include in the work plan a dedication of one-quarter of the committee's time to working on alcohol-related issues, first asking the coalition of stakeholders to work toward an agreement and to report to the committee at its February meeting on areas of agreement. If there are no agreements by that date, the committee would work on developing its own approach to changes in the way alcohol is regulated in Montana.
- Voted to have no involvement in the HJ 29 study of meat inspection laws. This will trigger a letter to Legislative Council under 5-5-217(3) to recommend the study not be done.
- Voted to have a moderate level of involvement in the SJ18 study of occupational licensing for those with criminal convictions.
- Voted to have a maximum level of involvement in the SJ24 study of how the lodging facility use tax is spent.
- Included in member issues (along with the plan to study alcohol issues) a moderate level of involvement regarding updates of the presumptive disease under workers' compensation for firefighters and a moderate level of activity to study broadband issues in Montana.
- Voted with the incorporation of the items listed above to adopt the work plan with the understanding that meeting dates may be changed later and details of the studies would be added later.
- Discussed but didn't include in the work plan member issues related to franchises and credit cards.
- Agreed on the next meeting date of November 7.

CALL TO ORDER AND ROLL CALL

- 09:03:06 Rep. Sharon Stewart Peregoy called the meeting to order at 9:03 a.m. The secretary called role. Sen. Nate McConnell and Rep. Stewart Peregoy participated by phone. Sen. Ellsworth was excused and left his proxy with Sen. Gordon Vance. Rep. Stewart Peregoy asked Rep. Vince Ricci as vice presiding officer to preside over the meeting. ([Attachment 3](#))
- 09:04:26 Rep. Ricci honored the firefighters and first responders of the 9/11 disaster with a moment of silence.

AGENCY MONITORING PART I

Overview of Agencies Presenting - Pat Murdo, Committee Staff

09:05:48 Ms. Murdo discussed Agency Monitoring ([Exhibit 1](#)) and noted that an overview was available of each agency to be monitored today.

Montana State Fund Overview - Laurence Hubbard, CEO and President

09:08:45 Mr. Hubbard ([Exhibit 2](#))

Montana State Fund (MSF) 2019 Budget - Mark Burzynski

09:25:40 Mr. Burzynski ([Exhibit 3](#)) ([Exhibit 4](#))

Committee Questions

09:42:49 Rep. Noland asked about the \$10.5 million budget projection in claim benefits in Mr. Burzynski's presentation. He also asked about lawsuits leveling off and asked if that is because companies might be going with private carriers.

09:43:59 Mr. Burzynski

09:46:28 Rep. Noland asked about policyholders in other states. He referenced the MSF building here and asked about work in other states.

09:47:02 Mr. Hubbard

09:49:07 Rep. Noland asked about the 307 FTEs and whether fewer FTEs were possible.

09:49:39 Mr. Burzynski

09:51:32 Rep. Noland asked about vacancy savings.

09:55:29 Rep. Ricci asked Mr. Hubbard about the communication between the agents and Montana State Fund in selling MSF policies.

09:55:59 Mr. Hubbard

Department of Livestock - Mike Honeycutt, Executive Officer

09:57:43 Mr. Honeycutt gave an overview and update of the activities of the Department of Livestock (DOL). ([Exhibit 5](#))

Committee Questions

10:32:50 Rep. Noland asked Mr. Honeycutt about per capita reporting for horses and enforcement of the collection of per capita fees.

10:35:04 Rep. Ricci asked Gary Hamel with the Department of Livestock Meat Inspection Bureau about any communications between him and those people who are being inspected.

10:36:09 Mr. Hamel

10:37:26 Rep. Ricci asked Mr. Hamel how often the plants are being inspected.

10:37:38 Mr. Hamel

PUBLIC COMMENT on Montana State Fund or Department of Livestock

10:39:39 Chaley Harney, Executive Director, Montana Beef Council ([Exhibit 6](#))

ASSIGNED DUTIES

Update on Alcoholic Beverage Control Division Enforcement Actions - Dan Whyte, Department of Revenue Chief Legal Counsel

10:44:37 Mr. Whyte provided updates on a Yellowstone Club enforcement action and a lawsuit, *LL Liquor vs. the Department of Revenue*.

Committee Questions

10:51:49 Rep. Ricci asked if the lawsuit was a class action suit.

Presentation of Rail Service Competition Council Final Report - Lynn Zanto, Rail, Transit, and Planning Administrator, Department of Transportation

10:52:30 Ms. Zanto ([Exhibit 7](#))

Report on Co-Located Labs - Sen. Gordon Vance

10:57:45 Sen. Vance ([Exhibit 8](#))

Committee Questions

10:59:34 Rep. Ricci asked Sen. Vance to inform the committee of the next meeting date for the Co-Located Labs study.

11:00:29 Pat Murdo said that under "Reports" on the EAIC website, there is information on the Co-Located Labs Study.

FISCAL UPDATE AND COORDINATION PROPOSALS - Joe Triem, Legislative Fiscal Division

11:01:55 Mr. Triem discussed quarterly reports made available by the Legislative Fiscal Division for HB 2 Expenditures and Modifications for the Departments of Livestock, Agriculture, Commerce, Labor and Industry, and the State Auditor. ([Exhibit 9](#))

11:09:28 Mr. Triem gave a presentation on the Legislative Fiscal Division's *Summary of Historical Expenditure Look Back*. ([Exhibit 10](#))

Committee Questions

11:20:00 Rep. Noland noted that during the 2019 legislative session, reports indicated revenue would be sufficient for the budget. He asked what the current revenue to expenditure status is.

11:20:14 Mr. Triem said Legislative Fiscal Division has a report entitled "FYE 2019

Financial Report" and that revenues were currently strong. **(The FYE 2019 Financial Report was distributed to the committee after Mr. Triem's presentation, and is listed as FYE 2019 Financial Report, The Budget in Review (September 17, 2019), which is posted on the Legislative Fiscal Division website.)**

RULE REVIEW - Jameson Walker, Staff Attorney

- 11:22:23 Mr. Walker reported on his attendance at the Alcohol Policy Conference in Boston, Massachusetts.
- 11:23:41 Mr. Walker discussed Administrative Rule Reports: July 2019 Report (**Exhibit 11**) and August 2019 Report (**Exhibit 12**).
- 11:25:31 Mr. Walker discussed a letter from Jackson, Murdo & Grant Law Firm to Commissioner Galen Hollenbaugh regarding the Montana Board of Dentistry's New Rule II. (**Exhibit 13**)

Committee Questions

- 11:26:56 Sen. Vance asked Mr. Walker to explain to the new members what can happen with a rule that the committee may want to challenge.
- 11:28:15 Mr. Walker explained that timing with rules can be problematic for committees that might want to take action on a rule. Rules are announced every two weeks and yet interim committees meet every three months or so. The Montana Administrative Procedure Act (MAPA) puts the burden on interim committees to review the rules and to give some safeguards against rules going into effect without a committee review or a hearing. Mr. Walker referred to a memo that he distributed at the June meeting on rules in general and what a committee can do to delay a rule. He explained the process of objecting to rules that interim committees follow.
- 11:30:49 Sen. Vance said he would like to delay action on the rule change for the Board of Dentistry and to give members time to hear from the public and to review the New Rule II.
- 11:31:51 Ms. Murdo explained that other interim committees have concerns regarding the rule process and taking action without notice on the agenda. She referenced the statutory language that said a majority of the committee can request that a letter be written to delay action.
- 11:33:01 Mr. Walker

Motion

- 11:34:08 Rep. Stewart Peregoy moved to send a letter from the Economic Affairs Interim Committee objecting to the Montana Board of Dentistry's New Rule II and requesting that the Board take no further action until the Committee has had an

opportunity for a full review and discussion.

Discussion

11:35:08 Mr. Walker said that the objection would allow the department to conduct its rule hearing on October 2 and allow the department to accept written submissions from the public. The committee's letter prevents the department from adopting the rule before the Economic Affairs Interim Committee's next meeting. He wanted it noted that the objection will not completely halt the department's rulemaking process.

Public Comment

11:36:29 Sean Slanger, Jackson, Murdo & Grant Law Firm, representing the denturists, commented on the Montana Board of Dentistry's proposed New Rule II.

11:38:11 Mr. Walker said the motion is for each committee member to notify the committee presiding officer that there is an objection to a notice of proposed rulemaking under 2-4-305(9).

Vote

11:38:59 The motion passed unanimously by roll call vote. **(Attachment 4)**

11:45:43 **Lunch** (reconvened at 1:01 p.m.)

AGENCY MONITORING PART II

Air Ambulance Discussion

13:03:12 Sen. Vance brought the committee up to date regarding a query by a member of the Legislature who had emailed the committee regarding memberships being sold by air ambulance providers. The legislator indicated that she thought this was illegal. Sen. Vance suggested that it is not illegal to sell the memberships but the seller has to register with the State Auditor's Office. He asked a representative of the State Auditor's Office whether that has happened.

13:05:22 Bob Biscupiak, Deputy Insurance Commissioner, State Auditor's Office

State Auditor's Office Presentation - Matt Rosendale, Commissioner of Securities and Insurance, State Auditor's Office

Overview of the Securities and Insurance Divisions

13:05:41 Commissioner Rosendale gave an overview of the State Auditor's Office **(Exhibit 14)** and a presentation of the activities of the Securities and Insurance Divisions, the budget, the Montana Land Board, and a summary of the Legislative Session **(Exhibit 15)**.

Committee Questions

- 13:31:40 Rep. Ricci asked about small tents that are set up in Billings after hail storms that advertise no deductibles or free car rentals. He asked if these people have to be registered with the State Auditor's Office.
- 13:32:24 Commissioner Rosendale

Public Comment

- 13:35:18 Racene Friede, Glacier County Regional Tourism Commission, commented on Senate Joint Resolution 24.

WORK PLAN DETERMINATION

Overview of the 2019-2020 Work Plan - Pat Murdo

- 13:36:34 Ms. Murdo presented the Work Plan ([Exhibit 16](#)) and a Survey regarding the 2019-2020 Work Plan ([Exhibit 17](#)).
- 13:41:44 Ms. Murdo discussed Legislative Week. ([Exhibit 18](#))

Discussion on interim studies as assigned

- 13:49:53 Rep. Ricci asked Ms. Murdo if the committee has to do HJR 29, SJR 18, and SJR 24.
- 13:50:44 Ms. Murdo
- 13:51:03 Sen. Vance asked Mr. Walker for his legal interpretation on whether or not an interim committee has to take on study resolutions that were assigned.
- 13:51:23 Mr. Walker
- 13:51:40 Sen. Vance asked about member options and if Ms. Murdo would elaborate on option 6, studying franchising.
- 13:52:05 Ms. Murdo
- 13:53:20 Sen. Vance asked Rep. Noland about his objectives in studying franchising.
- 13:53:36 Rep. Noland said that several of his constituents have contacted him with concerns about franchising.
- 13:55:01 Rep. Noland said that he brought up a concern at the last meeting regarding liquor issues.
- 14:00:43 Mr. Walker summarized the issue of whether or not an interim committee has to study a study resolution that has been assigned by the Legislative Council. He cited 5-5-217(3), MCA.
- 14:02:42 The committee members discussed whether or not they wanted to study the assigned study resolutions, the issue of franchising, and the liquor issue. Sen. Vance asked if the committee might consider allocating a small segment of time

to the smaller studies and then spend more time as individual members looking at some of the others, particularly the liquor issue.

14:14:12 Ms. Murdo discussed page 10 of the work plan.

Public Comment on a member-requested study of liquor issues

14:16:12 Matt Leow, Executive Director, Montana Brewery Association, supported the review of Montana's alcohol policies and options for reform.

14:22:18 Patrick Webb, American for Prosperity in Montana, said that his organization would like to see the regulatory barriers dropped from all industries and wants to see beneficial relationships thrive in the state.

14:23:40 Melissa Lewis, MillerCoors in Montana, said that if there is a study, formal or informal, MillerCoors would like to be included.

14:24:25 EJ Redding, Montana Beer and Wine Distributors' Association, commented on the relationships within the alcohol industry.

Motion

14:27:49 Rep. Noland moved to have the Economic Affairs committee spend 3/4 of its time on the study of the Alcohol Control Division and the liquor issues.

Discussion

14:28:59 Rep. Harvey said that he doesn't think that 3/4 of the committee's time should be spent on this topic. He would like to cut it back and have the industry come to the table with some of the priority issues and narrow the study down.

Substitute Motion

14:29:49 Sen. Vance made a substitution motion to have the committee study the liquor issues using one-fourth of its time and to incorporate Rep. Harvey's suggestion and put a firm date upon which, if no agreement is achieved among stakeholders, the committee will consider its own legislation.

Discussion

14:31:26 Rep. Sullivan asked Ms. Murdo to clarify the options and levels of the work plan.

14:33:09 Rep. Harvey asked if the committee needs to define what topics under alcohol the committee would discuss.

14:33:23 Ms. Murdo asked if the chair wanted to have a discussion on this issue at a later meeting.

14:33:37 Sen. Vance said it would have to be a date certain that would give stakeholders enough time to make a decision or the committee enough time to take later action.

14:34:26 Ms. Murdo recommended a February date which would start the allocation of time for that study.

Vote

14:35:47 The substitute motion passed 8-2, with Rep. Noland and Rep. Kassmier voting no, and Sen. Ellsworth voting aye by proxy.

Discussion on the other study resolutions

14:37:44 Ms. Murdo discussed the time that the committee wanted to spend on the study resolutions.

14:37:53 Sen. Vance suggested hearing first from the committee and then public comment.

14:38:27 Rep. Ricci asked the committee how much interest there is for the meat inspection study.

14:38:44 Sen. Vance said that based on Gary Hamel's testimony that the meat inspectors have to comply with the federal regulations, he sees no need for the study.

Public Comment on Meat Inspections

None.

Motion

14:40:42 Sen. Vance moved for a recommendation that the committee has no involvement in the Meat Inspection Study.

Vote

14:41:00 The motion passed 8-1, with Sen. Smith voting no, and Sen. Ellsworth voting aye by proxy.

14:42:33 Ms. Murdo discussed the remaining time allocations for the rest of the studies.

Public Comment on SJR 18, Occupational Licensing/Criminal Convictions

14:44:38 Jana Staton, Missoula Partners for Reintegration ([Exhibit 19](#))

14:47:07 Allen Clairmont, Welcome Back

14:49:15 Bart Holt ([Exhibit 20](#))

14:53:26 Patrick Webb, Americans for Prosperity in Montana

Discussion on SJR 18

14:55:48 Rep. Ricci asked if the committee wanted to include SJR 18 in the work plan.

14:55:54 Rep. Sullivan would like to do a moderate level of involvement on SJR 18.

14:56:18 Sen. Smith said he supports proceeding with SJR 18.

Motion

14:56:58 Rep. Sullivan moved to proceed with SJR 18 at a moderate level in the work plan.

Vote

14:57:42 The motion passed 6-3 on a voice vote with Rep. Noland and Sen. Vance voting no, and Sen. Ellsworth voting no by proxy, and Rep. Stewart Perego voting yes by proxy.

Discussion on SJR 24, study of Lodging Facility Tax

14:58:54 Sen. Vance said he would like to move forward with SJR 24, the study of the Lodging Facility Use Tax.

Public Comment on SJR 24

14:59:11 Jennifer Pelej, Division Administrator, Montana Office of Tourism and Business Development, Department of Commerce

14:59:40 Racene Friede, Glacier County Regional Tourism Commission

Discussion on Other Member Issues

15:00:03 Rep. Harvey said he and Sen. McConnell would like to look at the implementation and the effects of SB 160, a bill that created a presumptive disease in workers' compensation for firefighters.

15:00:34 Rep. Ricci asked Rep. Harvey if he thinks that is something that the committee needs to study or if individual committee members can look into it and report back to the committee.

15:01:00 Rep. Harvey said that he would like to hear from representatives of Workers' Compensation insurance companies.

15:02:36 Sen. Vance discussed Sen. Ellsworth's interest in studying the credit card and broadband issues.

Motion

15:03:20 Sen. Vance moved to proceed with SJR 24 at the maximum level in the work plan.

Vote

15:04:12 The motion passed unanimously on a voice vote, 9-0, with Sen. Ellsworth voting aye by proxy, and Rep. Stewart Perego voting aye by proxy.

Discussion on Implementation of Firefighter Presumptive Disease statutes

15:04:43 Ms. Murdo

Motion on Implementation of Firefighter Presumptive Disease statutes

15:05:01 Rep. Harvey moved to proceed with the implementation of firefighter presumptive disease statutes at the moderate level.

Vote

15:05:45 The motion passed 5-2 on a voice vote with Sen. Vance voting no and Sen. Ellsworth voting no by proxy.

Motion on the Broadband Study

15:06:14 Sen. Vance moved to proceed with the broadband study at the minimum level.

Discussion

15:06:39 Rep. Kassmier suggested doing the study at the moderate level.

Substitute Motion

15:06:52 Rep. Kassmier made a substitute motion to proceed with the broadband study at the moderate level.

Vote

15:07:12 The motion passed unanimously by voice vote, with Sen. Ellsworth and Rep. Stewart Peregoy voting aye by proxy.

15:08:03 Sen. Smith suggested giving the meat inspection study to Business and Labor.

Next Meeting Dates

15:10:29 The committee members discussed the Economic Affairs Interim Committee's participation during Legislative Week in January 2020.

15:11:26 Ms. Murdo discussed the next meeting date in November. It was agreed that the committee's next meeting will be November 7, 2019.

Adopt Work Plan

Motion on Adoption of Work Plan

15:12:28 Rep. Harvey moved to adopt the Work Plan as agreed upon today.

Vote

15:12:57 The motion passed unanimously by voice vote with Sen. Ellsworth and Rep. Stewart Peregoy voting aye by proxy.

ADJOURNMENT

15:13:16 With no further business before the committee, Rep. Ricci adjourned the meeting at 3:13 p.m.