



## **ECONOMIC AFFAIRS INTERIM COMMITTEE**

### **68th Montana Legislature**

#### **SENATE MEMBERS**

Kenneth Bogner, Presiding Officer  
Carlie Boland  
Jason Ellsworth  
Shane Morigeau

#### **HOUSE MEMBERS**

Alice Buckley  
Derek Harvey, Vice Presiding Officer  
Joshua Kassmier  
Brandon Ler  
Mark Noland  
Katie Sullivan

#### **COMMITTEE STAFF**

Erin Sullivan - Research Analyst  
Jameson Walker - Attorney  
Fong Hom - Secretary

# **MINUTES LOG**

August 16, 2022  
Zoom/Room 350  
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.

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#### **MEMBERS PRESENT:**

Sen. Kenneth Bogner, Chair (R)  
Rep. Derek Harvey, Vice Chair (D)  
Sen. Carlie Boland (D)  
Rep. Alice Buckley (D)  
Sen. Jason Ellsworth (R)  
Rep. Joshua Kassmier (R)  
Sen. Shane Morigeau (D)  
Rep. Mark Noland (R)  
Rep. Katie Sullivan (D)

#### **MEMBERS EXCUSED:**

Rep. Brandon Ler (R)

#### **STAFF PRESENT:**

Erin Sullivan, Research Analyst  
Jameson Walker, Attorney  
Fong Hom, Secretary

## **AGENDA (Attachment 1)**

### **VISITORS' LIST (Attachment 2)**

#### **COMMITTEE ACTION**

The committee held a virtual meeting to continue work on two of its assigned studies, review agency legislation proposals, and conduct administrative rule review. The committee:

- Held a work session for its SJ31 committee bill, reviewed the draft final report, heard public comment, and provided direction to staff for further amendments to the bill;
- Held a work session for its HJ48 committee bills, reviewed the draft final report, heard public comment, and provided direction to staff for further amendments to one committee bill;
- Reviewed and approved proposed legislation from the Division of Banking and Financial Institutions and the Department of Agriculture for pre-introduction for the 2023 Legislative session;
- Held administrative rule review; and
- Received a report and update from the Board of Funeral Service on the implementation of HB139.

The committee voted to:

- Continue drafting three committee bills: one for the SJ31 study, one for a member issue regarding independent contractors, and one for the HJ48 study. A vote to advance a second committee bill for the HJ48 study failed on a 5-5 vote;
- Withdraw its formal objection to MAR Notice No. 24-2-390 by the Department of Labor & Industry; and
- Informally object to three rule proposals by the Department of Revenue: MAR Notice No. 42-1052 (Adoption and amendment of rules pertaining to alcohol); MAR Notice No. 42-1058 (Marijuana Cultivator Tier 13-15 Canopy License and Registered Premises Requirements); and MAR Notice No. 42-1059 (Marijuana Dispensary Customer Loyalty Programs).

#### **CALL TO ORDER/ROLL CALL**

13:00:01 Presiding Officer Kenneth Bogner called the meeting to order at 1:00 p.m. The committee secretary took roll. **(Attachment 3)** Sen. Morigeau was excused and left his proxy with Rep. Sullivan; Rep. Kassmier was excused and left his proxy with Sen. Bogner; and Rep. Ler was excused and left his proxy with Sen. Ellsworth.

13:02:17 Sen. Bogner gave opening remarks.

#### **SJ 31 STUDY WORK SESSION**

##### **Review of draft final report**

13:02:56 Erin Sullivan, Research Analyst, discussed the draft SJ 31 Study final report. **(Exhibit 1)**

##### **Department of Revenue presentation**

13:10:33 Grant Clifford, Department of Revenue, gave a presentation on the Manufacturing Facility Cost Structure Analysis. **(Exhibit 2)**

### **Questions from the committee**

- 13:29:05 Rep. Noland asked if the department has furnished the names of all owners in accordance with 5-11-210, MCA.
- 13:29:56 Courtney Cosgrove, Legal Counsel, Department of Revenue
- 13:31:04 Rep. Noland asked Ms. Cosgrove what steps the department is taking to provide this information to the committee.
- 13:33:34 Sen. Ellsworth asked Mr. Walker for his opinion of what the bill currently states.
- 13:38:39 Sen. Ellsworth commented on the licensing fee.

### **Public comment**

- 13:40:30 Pepper Petersen, President/CEO, Montana Cannabis Guild
- 13:46:55 Kate Cholewa, Montana Cannabis Industry Association

### **SJ 31: PD0001 - Version 3 Summary**

- 13:57:25 Ms. Sullivan discussed the proposed changes to SJ 31: PD 0001 - Version 3. **(Exhibit 3)**

### **Motion on proposed changes to definition of hemp**

- 14:03:40 Sen. Ellsworth moved to accept the change in the definitions of hemp as recommended by the Department of Revenue.

### **Discussion on the motion**

- 14:04:23 Sen. Bogner asked Ms. Sullivan if the department wanted to continue its work on PD 1v3 during the session.

### **Vote**

- 14:04:44 The motion passed unanimously on a voice vote, with Reps. Ler and Kassmier voting yes by proxy.

### **Proposed Changes to Limitations of Act Discussion**

- 14:05:32 Rep. Sullivan asked Ms. Sullivan to clarify "possession in hotel".
- 14:06:05 Ms. Sullivan discussed the recommendation to change the definition of "use of tobacco products in public schools" as defined in 20-1-220, MCA.
- 14:08:31 Ms. Cosgrove explained the differences in the definition of marijuana product in 20-1-220 vs the definition in 16-12-102, MCA.

### **Motion**

- 14:10:29 Sen. Ellsworth moved to accept Sen. Morigeau's language and the language by the Department of Revenue to include "all smokable products".

### **Discussion on the motion**

- 14:11:31 Sen. Bogner asked Sen. Ellsworth if the language pertains to the language that Rep. Sullivan brought up regarding possession in a hotel or motel room.
- 14:12:37 Sen. Bogner asked Ms. Sullivan to explain "...there is no consumption of any type of marijuana products in a hotel or motel room unless it is designated as a smoking room."
- 14:13:46 Sen. Bogner stated his concerns about allowing families to rent a hotel or motel room for consumption of marijuana products while children are present.

- 14:14:24 Sen. Morigeau said the purpose of the language was to coordinate with the language in the Clean Indoor Act.
- 14:16:37 Ms. Sullivan said that the committee could segregate the issues as an amendment.
- 14:17:30 Sen. Bogner asked if Sen. Ellsworth would agree to designating a room for smoking marijuana products the same as a smoking room in a hotel or motel.
- 14:17:44 Sen. Ellsworth took that as a friendly amendment and will have the language that Ms. Sullivan stated put in.

#### **Amended Motion/Vote**

- 14:18:14 Sen. Ellsworth amended his motion to adopt the language proposed by Sen. Morigeau, including the segregated amendment as proposed.
- 14:18:38 The motion passed unanimously on a voice vote, with Rep. Ler and Rep. Kassmier voting yes by proxy.

#### **Definition of Smoking and Vaping by Minors Using Medical Marijuana Discussion**

- 14:20:04 Ms. Sullivan discussed the Cannabis Control Division's proposed change to the definition of "marijuana product" in 16-12-102, MCA, to "include concentrates intended for use by smoking or vaping." ([Exhibit 4](#))

#### **Motion**

- 14:21:24 Sen. Ellsworth moved to adopt the language as proposed by the Department of Revenue Cannabis Control Division.

#### **Discussion on the motion**

- 14:21:53 Ms. Sullivan discussed the proposed change in 16-12-508, MCA.
- 14:23:49 Sen. Bogner asked Ms. Cosgrove about the proposed language. Ms. Cosgrove said that the legislative intent is with minor cardholders that they are not permitted to smoke or vape marijuana.

#### **Vote**

- 14:25:37 The motion passed unanimously on a voice vote, with Reps. Ler and Kassmier voting yes by proxy.

#### **Identity of Controlling Beneficial Owners Discussion**

- 14:25:37 Ms. Sullivan discussed the proposed changes in the Identity of Controlling Beneficial Owners section.
- 14:25:59 Sen. Ellsworth discussed adding language "upon the request of any committee member....." to the statute so that information on the identity of the beneficial owners is not made public because of risk factors to the owners.

#### **Motion/Vote**

- 14:29:51 Sen. Ellsworth moved to adopt the proposed change in 16-12-104, MCA, to add language, "upon the request of a committee member..."
- 14:31:01 The motion passed unanimously on a voice vote, with Reps. Ler and Kassmier voting yes by proxy.

#### **Additional Tier Levels Discussion**

- 14:31:40 Ms. Sullivan discussed the rule notice that added tiers for cultivators.

### **Further discussion on other recommendations**

14:33:31 Sen. Bogner discussed the issue of data collection of square footage on licensed vs in production, that was brought up during the public comment section.

### **Motion/Vote**

14:34:18 Sen. Ellsworth moved to accept the Department of Revenue's new rule to create three additional tiers and to amend ARM 42-39.104 pertaining to corresponding licensing fees.

14:31:08 The motion passed unanimously on a voice vote, with Reps. Ler and Kassmier voting yes by proxy.

### **Timeline for the SJ 31 Study**

14:35:27 Ms. Sullivan discussed the next steps for the SJ 31: PD 0001 and the final SJ 31 Study report.

## **AGENCY LEGISLATION PROPOSALS**

### **Division of Banking and Financial Institutions**

14:36:58 Melanie Hall, Commissioner, Division of Banking & Financial Institutions, gave a presentation on agency legislation proposals. ([Exhibit 5](#))

### **Questions from the committee**

14:44:56 Rep. Noland asked Ms. Hall for clarification of repealing the State Banking Board.

14:47:11 Sen. Ellsworth asked Ms. Hall about the intent of amending the use of the word "bank".

### **Public comment on agency legislation proposals**

14:50:19 Cary Hegreberg, President/CEO, Montana Bankers Association

14:54:53 Tara Boulanger, Office of Public Instruction, discussed the financial literacy in schools.

### **Motion/Vote**

14:57:19 Sen. Ellsworth moved to proceed with the Banking and Financial Institutions' proposed legislation for preintroduction purposes.

14:57:15 The motion passed unanimously on a voice vote, with Reps. Ler and Kassmier voting yes by proxy.

**BREAK** (reconvened at 3:15 p.m.)

### **Department of Agriculture**

15:16:02 Cort Jensen, Chief Legal Counsel, Department of Agriculture, gave a presentation on agency legislation proposals. ([Exhibit 6](#))

### **Questions from the committee**

15:23:10 Rep. Noland asked Mr. Jensen about the transfer of the Montana Aquatic Invasive Species Act.

### **Public comment on Department of Agriculture's proposed legislation**

None.

### **Motion/Vote**

- 15:27:00 Sen. Ellsworth moved to proceed with the Department of Agriculture's proposed legislation for preintroduction purposes.
- 15:27:47 The motion passed unanimously on a voice vote, with Reps. Ler and Kassmier voting yes by proxy.

### **ADMINISTRATIVE RULE REVIEW**

#### **Overview of the rule review memo**

- 15:29:15 Jameson Walker, Committee Attorney ([Exhibit 7](#))

#### **Questions from the committee**

- 15:40:45 Rep. Noland asked Mr. Walker about MAR Notice No. 24-174-79 from the Department of Labor and Industry relating to Drug Supply Chain Security Act.
- 15:46:13 Quinlan O'Connor, Chief Legal Counsel, DLI

#### **Public Comment on Administrative Rule Review**

- 15:50:37 John Iverson, Montana Taverns Association
- 15:51:06 Kaari Fulton, Armadillo Buds
- 15:55:13 Jen Hensley, Montana Distillers Guild
- 15:57:57 Kate Cholewa, Montana Cannabis Industry Association
- 15:59:43 Deborah Kimmet
- 16:00:14 Nicolas Lee, Glacier Distilling
- 16:01:40 Ryan Montgomery, President of the Montana Distillers Guild
- 16:04:17 Pepper Petersen, Montana Cannabis Guild
- 16:08:02 Bill Metzler, Lakeside, Montana

#### **Motion to formally object to MAR Notice No. 42-1059**

- 16:11:50 Sen. Ellsworth moved to formally object to MAR Notice No. 42-1059.

#### **Discussion on the motion**

- 16:13:01 Mr. Walker discussed the process through MAPA for objecting to rules.

#### **Amended Motion/Vote**

- 16:15:15 Sen. Ellsworth amended his original motion to "formally object to MAR Notice No. 42-1059" to "informally object to MAR Notice No. 42-1059."
- 16:16:58 The motion passed unanimously on a voice vote, with Reps. Ler and Kassmier voting aye by proxy.

#### **Further discussion on rule notices**

- 16:17:17 Sen. Ellsworth asked Mr. Walker about MAR Notice No. 42-1058.

#### **Motion to informally object to MAR Notice No. 42-1058**

- 16:19:15 Rep. Noland moved to informally object to MAR Notice No. 42-1058.

#### **Discussion on the motion**

- 16:20:22 Mr. Walker reviewed the MAPA process of an informal objection.

### **Vote**

16:21:16 The motion passed unanimously on a voice vote, with Reps. Ler and Kassmier voting aye by proxy.

### **Motion/Vote to informally object to MAR Notice No. 42-1052**

16:21:56 Rep. Harvey moved to informally object to MAR Notice No. 42-1052.

16:23:55 The motion passed unanimously on a voice vote, with Reps. Ler and Kassmier voting aye by proxy.

### **Discussion on the motion to object to MAR Notice No. 24-2-390**

16:24:37 Sen. Ellsworth asked Sen. Bogner about clarifying the motion to object to MAR Notice No. 24-2-390 that resulted from the last Economic Affairs Interim Committee meeting.

16:25:23 Mr. Walker discussed the objection to MAR Notice No. 24-2-390.

### **Motion/Vote to withdraw the committee's objection to MAR Notice No. 24-2-390**

16:26:35 Sen. Ellsworth moved to withdraw the committee's formal objection to MAR Notice No. 24-2-390.

16:27:14 The motion passed unanimously on a voice vote, with Reps. Ler and Kassmier voting aye by proxy.

## **INDEPENDENT CONTRACTOR COMMITTEE BILL**

### **Review of draft bill updates**

16:28:12 Ms. Sullivan discussed the draft bill, PD 0018. [\(Exhibit 8\)](#)

16:29:01 Sen. Morigeau said he would like to delay PD 0018 for further discussion with the stakeholders.

16:29:52 Sen. Bogner said he will move this item to the September meeting, but those wishing to comment on the draft bill can do so today.

### **Public comment on PD 0018**

16:30:10 Brian Thompson, Montana Contractors Compensation Fund

16:30:22 Kaari Fulton

## **HB 139 IMPLEMENTATION**

16:31:33 Ms. Sullivan referred the committee to HB 139 [\(Exhibit 9\)](#) and introduced Jim Axelson, Board of Funeral Services, who will discuss the implementation of HB 139.

### **Board of Funeral Services**

16:32:54 Jim Axelson, Chairman, Board of Funeral Services, reported on the status of the Funeral Services Board Special Revenue Fund. [\(Exhibit 10\)](#)

### **Questions from the committee**

16:36:07 Sen. Ellsworth recognized the good work done by Mr. Axelson.

16:36:24 Sen. Bogner asked Mr. Axelson if the legislation affected the board's ability to meet and perform its duties.

### **Public comment**

None.

## **HJ 48 STUDY WORK SESSION**

### **Overview of draft bill and draft final report**

- 16:38:59 Ms. Sullivan discussed the HJ 48 Study final report. [\(Exhibit 11\)](#)
- 16:41:30 Ms. Sullivan discussed the draft bill, PD 0002: revising the membership of the criminal intelligence information advisory council. [\(Exhibit 12\)](#)

### **Questions from the committee**

- 16:43:23 Sen. Bogner asked Rep. Barry Usher to comment on the Criminal Intelligence Information Advisory Council.
- 16:43:45 Rep. Usher discussed his participation on the Advisory Council.

### **Public comment on PD 0002**

None.

### **Committee discussion on PD 0002**

- 16:48:11 Sen. Ellsworth discussed the importance of serving a 4-year term.
- 16:48:31 Rep. Sullivan said she is open to extending the number of years on a term.

### **Motion/Vote**

- 16:49:14 Sen. Ellsworth moved to extend the term on the Criminal Intelligence Information Advisory Council to 4 years.
- 16:49:34 The motion passed on a voice vote, with Reps. Ler and Kassmier, and Sen. Morigeau voting aye by proxy.

### **Committee discussion**

- 16:50:31 Ms. Sullivan asked if a legislator would be limited to serving only one term, or could they serve additional terms. She also asked if the terms could be staggered.
- 16:51:03 Sen. Ellsworth suggested extending a legislator's participation on the Council beyond one term and to have the terms staggered.
- 16:53:12 Ms. Sullivan discussed having a final draft of PD 0002 ready for review at its September meeting.

### **Discussion on PD 0007: establish the facial recognition for government use act, and PD 0011: establish facial recognition for government use act**

- 16:53:54 Ms. Sullivan discussed the revised bill draft, PD 0007 [\(Exhibit 13\)](#), the bill draft, PD 0011 [\(Exhibit 14\)](#), and the facial recognition bill comparison document [\(Exhibit 15\)](#).

### **Public comment on PD 7 and PD 11**

- 16:55:40 Steve Cape, Coalition for Safety and Justice
- 17:01:56 Kendall Cotton, President/CEO, Frontier Institute

### **Committee discussion**

- 17:04:22 Sen. Ellsworth discussed PD 0011 and that it should be adopted.
- 17:05:42 Rep. Noland discussed the constitutional right of privacy and the reasons for his proposed legislation, PD 0011.



### **Motion/Roll Call Vote**

- 17:05:25 Rep. Noland moved to proceed with PD 0011 as a committee bill.
- 17:07:41 The motion failed on a roll call vote, 5-5, with Sens. Bogner and Ellsworth, Reps. Noland and Sullivan voted yes, and Rep. Ler voted yes by proxy. Sens. Boland and Morigeau, and Rep. Buckley voted no, and Reps. Harvey and Kassmier voted no by proxy.
- 17:09:58 Sen. Ellsworth asked Sen. Bogner if there would be an opportunity to vote again on PD 0011 at the September meeting.

### **GENERAL PUBLIC COMMENT**

- 17:11:23 Kaari Fulton commented on medical marijuana use vs. recreational marijuana use.
- 17:15:56 Pepper Petersen, President/CEO, Montana Cannabis Guild, commented on the rules regarding labeling and packaging.
- 17:28:07 Jen Hensley, Montana Distillers Guild, commented on Fidelity Labs.
- 17:29:22 Patrick Lyden, First Montana Productions, commented on medical marijuana use vs. recreational marijuana use.

### **Additional administrative items**

- 17:31:14 Ms. Sullivan summarized the work that needs to be done for the next meeting.
- 17:32:44 Mr. Walker discussed the timeline for withdrawing an objection to rules.
- 17:34:34 Sen. Bogner suggested putting that on the agenda for the next meeting.

### **ADJOURNMENT**

- 17:35:16 Sen. Bogner adjourned the meeting at 5:35 p.m.