



ECONOMIC AFFAIRS INTERIM COMMITTEE

67th Montana Legislature

SENATE MEMBERS

Kenneth Bogner
Carlie Boland
Jason Ellsworth
Shane Morigeau

HOUSE MEMBERS

Alice Buckley
Derek Harvey
Joshua Kassmier
Brandon Ler
Mark Noland
Katie Sullivan

COMMITTEE STAFF

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

MINUTES LOG

February 10, 2022

Room 137/Zoom

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 IN PERSON:

Sen. Kenneth Bogner, Chair (R)
Rep. Derek Harvey, Vice Chair (D)
Rep. Alice Buckley (D)
Rep. Joshua Kassmier (R)
Rep. Mark Noland (R)

MEMBERS PRESENT VIA ZOOM:

Sen. Jason Ellsworth (R)
Sen. Shane Morigeau (D)
Sen. Carlie Boland (D)
Rep. Katie Sullivan (D)
Rep. Brandon Ler (R)

STAFF PRESENT:

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

AGENDA [\(Attachment 1\)](#)

VISITORS' LIST [\(Attachment 2\)](#)

RECONVENE

08:46:06 Presiding Officer Bogner reconvened the meeting at 8:46 a.m. The committee secretary took roll. Rep. Ler was excused but later joined the meeting via Zoom. [\(Attachment 3\)](#)

AGENCY OVERSIGHT: DEPARTMENT OF COMMERCE

08:47:50 Erin Sullivan, Research Analyst, gave an overview of the documents in the committee's binder: the Department of Commerce [\(Exhibit 20\)](#), Montana Board of Investments 2021 Annual Report [\(Exhibit 21\)](#), and the Montana Heritage Commission's Senate Bill 3 2022 Report [\(Exhibit 22\)](#).

Presentation by agency

08:48:24 Scott Osterman, Director, Department of Commerce [\(Exhibit 23\)](#)

Questions from the Committee of Director Osterman

09:51:09 Sen. Ellsworth asked if the Department of Commerce is looking further into the bed tax component of the tourism program.

Public Comment

None

MEMBER ISSUE: IMPLEMENTATION OF HB 704

09:56:35 Jameson Walker, Committee Attorney, gave an overview of House Bill 704: creating a special raffle or lottery game for the benefit of the Board of Horseracing [\(Exhibit 24\)](#). Mr. Walker referenced an e-mail from Rep. Ed Buttrey asking Mr. Walker for a legal opinion [\(Exhibit 25\)](#).

10:02:42 Rep. Ed Buttrey, HD 20

10:08:19 John Hayes, member of the Board of Horseracing

10:11:37 Scott Sales, Director of the Montana Lottery [\(Exhibit 26\)](#)

10:29:59 Ann Charpentier, Marketing and Sales Director, Montana Lottery, gave a presentation on the two games that were developed to support the Board of Horseracing.

10:32:45 Director Sales gave closing remarks.

Questions from the committee

10:35:04 Sen. Bogner asked Director Sales about adding a third Montana Millionaire game.

AGENCY OVERSIGHT: DIVISION OF BANKING AND FINANCIAL INSTITUTIONS

- 10:38:03 Melanie Hall, Commissioner of Banking and Financial Institutions, gave an overview of the division.
- 10:38:58 Sen. Bogner interrupted Ms. Hall and asked for any public comment on the Board of Horseracing.

Public Comment on Board of Horseracing

- 10:39:26 Tom Tucker wanted to set the record straight on some comments made by Director Sales and his involvement in the Fantasy Sports League.

DIVISION OF BANKING AND FINANCIAL INSTITUTIONS (continued)

- 10:46:30 Ms. Hall concluded her presentation on the division.
- 10:46:40 Ms. Hall gave a presentation on the two foreclosure processes used by lenders in Montana ([Exhibit 27](#)). She also provided flowchart of Montana's Non-Judicial Foreclosure Timeline ([Exhibit 28](#)). She gave background information on two people who have issues with the foreclosure process: Thorco Timeline ([Exhibit 29](#)) and Mitchell Timeline ([Exhibit 30](#)).

Public Comment on Division of Banking and Financial Institutions

- 10:50:25 Nicholas Ramlow commented on the term "rent seeking".

Public Comment on the Foreclosure Process

- 10:52:24 Dennis Thornton, self, discussed his experience with the Whitefish Credit Union. ([Exhibit 31](#))
- 11:10:20 Toni Mitchell discussed how she felt the Whitefish Credit Union engaged in predatory lending.
- 11:21:56 Nathan Clark discussed his experience with the Whitefish Credit Union.
- 11:36:47 Donna Thornton provided comments to support Mr. Thornton's testimony.
- 11:49:31 Wintzel Major testified against the Whitefish Credit Union.
- 11:53:24 Rick Breckenridge, Land Surveyor

Questions from the Committee

- 12:01:49 Rep. Noland asked Commissioner Hall several questions that he read from Mr. Thornton's exhibit titled "General Questions" starting on page 1 of 13 pages.
- 12:07:15 Rep. Kassmier asked Commissioner Hall if a mortgage is a special lien (Mr. Thornton's Exhibit 31, "General Questions", page 3).
- 12:07:28 Rep. Bogner asked the Commissioner who is in charge of banking oversight in the state. He also asked the Commissioner to discuss the process of oversight.
- 12:11:28 Sen. Ellsworth asked Commissioner Hall if she refers any complaints on banking to the Attorney General's Office and if she referred this case to the AG's Office.
- 12:14:15 Rep. Noland asked Commissioner Hall more questions from Mr. Thornton's exhibit, pages 4 and 5.

12:16:10 Rep. Noland asked Kelly O'Sullivan, Legal Counsel, Division of Banking and Financial Institutions, questions from Mr. Thornton's exhibit starting on page 6.

BREAK (reconvened at 12:40 p.m.)

ADMINISTRATIVE RULE REVIEW

12:40:26 Jameson Walker, Committee Attorney, gave a presentation on the Administrative Rulemaking and Rule Review January 2022 (**Exhibit 32**) and February 2022 (**Exhibit 33**).

Public Comment on Rule Review

12:42:07 Brian Thompson, Montana Contractors Compensation Fund and the Montana Contractors Association discussed MAR Notice 24-35-376 and Senate Bill 367.

CONSTITUTIONAL INITIATIVE 121

Request for feedback by Revenue Interim Committee

12:45:30 Megan Moore, Research Analyst, Revenue Interim Committee (RIC) discussed the letter from RIC to Economic Affairs Interim Committee (EAIC) regarding Constitutional Initiative 121 (CI-121) (**Exhibit 34**) and ballot language for CI-121 (**Exhibit 35**).

Public Comment on the impacts of CI-121

12:47:36 Bridger Mahlum, Montana Chamber of Commerce
12:50:45 Darryl James, Executive Director, Montana Infrastructure Coalition
12:53:41 Sam Sill, Montana Association of Realtors
12:58:00 Eric Burke, Montana Federation of Public Employees
13:01:02 Nicolle Rolf, Montana Farm Bureau Federation
13:02:53 Brian Thompson, Montana Contractors Association
13:03:42 Amanda Frickle, Political Director, Montana AFL/CIO
13:05:52 Rose Bender (Zoom), Montana Budget and Policy Center
13:08:07 Tim Burton (Zoom), Executive Director, Montana League of Cities and Towns
13:11:08 Rachel Prezost (Zoom), Montana Farmers Union

Questions from the Committee

13:12:21 Rep. Buckley said she is willing to provide feedback from the RIC at the next EAIC meeting.
13:12:53 Sen. Bogner and Rep. Noland discussed what the proposed letter would be.

BREAK (reconvened at 1:25 p.m.)

COMMITTEE WORK SESSION

13:52:04 Ms. Sullivan explained the documents found under Tab 14 and Tab 15: A Wrap-up Report on the Return to Work Bonus Program from the Department of Labor and Industry and Public Comments received.

SJ 31 Study - review cleanup bill ideas

13:53:25 Ms. Sullivan discussed the Study timeline for SJ 31 (**Exhibit 36**), the SJ 31 April Options for the marijuana tour (**Exhibit 37**).

13:57:39 The committee decided to go with Option B regarding the marijuana tour.

13:59:47 Ms. Sullivan discussed the spreadsheet showing notes on the cleanup bill (**Exhibit 38**).

14:02:54 Ms. Sullivan asked the committee if it is interested in a panel on the medical marijuana or a presentation on federal policy or just focus on the tour of the lab.

14:03:32 Sen. Ellsworth said he would like to have a few bills to review.

14:04:02 Sen. Bogner wanted to look over the spreadsheet and go over the issues on the federal policy.

14:04:39 Sen. Bogner asked Rep. Sullivan if she has had time to think about possible steps for the HJ 48 Study moving forward. Rep. Sullivan said she would like to look at some policy concepts that would address some of the concerns of the committee members. She felt that there is no need for a final report. Sen. Ellsworth said he would like to submit questions to some companies and he would get those questions to the committee by Monday of next week.

14:07:31 Sen. Bogner asked Rep. Sullivan to discuss the issues from yesterday's meeting. Rep. Sullivan said her concepts were: policy that would address changing a privacy policy notice, look at the thresholds needed for law enforcement to access a database, limiting use of facial recognition to more egregious crimes, and to clarify the consent for opting in or out of other services that might be inefficient to identification.

Motion

14:09:49 Sen. Ellsworth moved that the committee draft a letter that formally requests the Department of Justice to investigate how the Whitefish Credit Union made loans, what their foreclosure procedures are, and if they are following good practices.

Discussion on the Motion

14:11:49 Rep. Harvey gave his reasons on why he will not support the motion.

Roll Call Vote

14:12:30 The motion passed, 6-4, on a roll call vote with Senators Morigeau, Bogner, and Ellsworth; Representatives Kassmier and Noland voting yes, and Rep. Ler voting yes by proxy. Sen. Boland and Representatives Harvey and Sullivan voted no, and Rep. Buckley voting no by proxy.

Motion

14:15:56 Sen. Ellsworth moved that the committee send a letter to the Department of Revenue memorializing the reasons articulated as to why a cultivator tier statute allows a cultivator to increase their tiers at their discretion and not just by annual renewal.

Discussion on the Motion

14:15:33 Mr. Walker reiterated what was articulated at yesterday's meeting.

14:17:11 Sen. Morigeau said that it is clear to him that it says a cultivator can increase licensure after January 1 up to a Tier V. He said he will support Sen. Ellsworth's motion.

14:18:02 Sen. Ellsworth clarified that his motion is not intended to be against the department.

14:18:32 Mr. Walker asked to work with either Sen. Ellsworth or Sen. Bogner on the wording of the letter before it is sent.

Vote

14:19:13 The motion passed unanimously on a voice vote, with Rep. Buckley and Rep. Ler voting aye by proxy.

Committee Discussion

14:19:49 Sen. Morigeau reminded the committee about objecting to the rule for the exempt contractor's license from the Department of Labor and Industry. He asked for the committee's support in proceeding with a committee bill to fix the rule.

14:21:00 Rep. Ler said he would do more research on the concentrate levels and bring that information to the next EAIC meeting.

14:22:11 Sen. Boland discussed her concerns regarding the complaint forms and said the committee should consider a committee bill to address the complaint forms.

14:24:25 Sen. Ellsworth agreed with Sen. Boland and suggested putting that topic on the spreadsheet.

GENERAL PUBLIC COMMENT

14:25:44 Connie Ciabatonni said she is concerned about the facial recognition, not only about privacy, but digital identity. She requested that the committee not draft a facial recognition bill.

14:27:38 Kaari Fulton agreed with Ms. Ciabatonni's comments and also thinks it is too soon.

14:30:22 Sen. Bogner thanked the staff and the committee members.

ADJOURNMENT

14:30:53 Sen. Bogner adjourned the meeting at 2:30 p.m.